

112TH CONGRESS
1ST SESSION

S. 1059

To amend the Public Health Service Act to provide liability protections for volunteer practitioners at health centers under section 330 of such Act.

IN THE SENATE OF THE UNITED STATES

MAY 25, 2011

Mr. THUNE (for himself, Mr. CASEY, Mr. BLUNT, Mr. LUGAR, Mr. FRANKEN, and Mr. SANDERS) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Public Health Service Act to provide liability protections for volunteer practitioners at health centers under section 330 of such Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Family Health Care
5 Accessibility Act of 2011”.

1 **SEC. 2. LIABILITY PROTECTIONS FOR HEALTH PROFES-**
2 **SIONAL VOLUNTEERS AT COMMUNITY**
3 **HEALTH CENTERS.**

4 Section 224 of the Public Health Service Act (42
5 U.S.C. 233) is amended by adding at the end the fol-
6 lowing:

7 “(q)(1) For purposes of this section, a health profes-
8 sional volunteer at an entity described in subsection (g)(4)
9 shall, in providing a health professional service eligible for
10 funding under section 330 to an individual, be deemed to
11 be an employee of the Public Health Service for a calendar
12 year that begins during a fiscal year for which a transfer
13 was made under paragraph (4)(C). The preceding sen-
14 tence is subject to the provisions of this subsection.

15 “(2) In providing a health service to an individual,
16 a health care practitioner shall for purposes of this sub-
17 section be considered to be a health professional volunteer
18 at an entity described in subsection (g)(4) if the following
19 conditions are met:

20 “(A) The service is provided to the individual at
21 the facilities of an entity described in subsection
22 (g)(4), or through offsite programs or events carried
23 out by the entity.

24 “(B) The entity is sponsoring the health care
25 practitioner pursuant to paragraph (3)(B).

1 “(C) The health care practitioner does not re-
2 ceive any compensation for the service from the indi-
3 vidual or from any third-party payer (including re-
4 imbursement under any insurance policy or health
5 plan, or under any Federal or State health benefits
6 program), except that the health care practitioner
7 may receive repayment from the entity described in
8 subsection (g)(4) for reasonable expenses incurred
9 by the health care practitioner in the provision of
10 the service to the individual.

11 “(D) Before the service is provided, the health
12 care practitioner or the entity described in sub-
13 section (g)(4) posts a clear and conspicuous notice
14 at the site where the service is provided of the extent
15 to which the legal liability of the health care practi-
16 tioner is limited pursuant to this subsection.

17 “(E) At the time the service is provided, the
18 health care practitioner is licensed or certified in ac-
19 cordance with applicable law regarding the provision
20 of the service.

21 “(3) Subsection (g) (other than paragraphs (3) and
22 (5)) and subsections (h), (i), and (l) apply to a health care
23 practitioner for purposes of this subsection to the same
24 extent and in the same manner as such subsections apply
25 to an officer, governing board member, employee, or con-

1 tractor of an entity described in subsection (g)(4), subject
2 to paragraph (4) and subject to the following:

3 “(A) The first sentence of paragraph (1) ap-
4 plies in lieu of the first sentence of subsection
5 (g)(1)(A).

6 “(B) With respect to an entity described in sub-
7 section (g)(4), a health care practitioner is not a
8 health professional volunteer at such entity unless
9 the entity sponsors the health care practitioner. For
10 purposes of this subsection, the entity shall be con-
11 sidered to be sponsoring the health care practitioner
12 if—

13 “(i) with respect to the health care practi-
14 tioner, the entity submits to the Secretary an
15 application meeting the requirements of sub-
16 section (g)(1)(D); and

17 “(ii) the Secretary, pursuant to subsection
18 (g)(1)(E), determines that the health care prac-
19 tioner is deemed to be an employee of the
20 Public Health Service.

21 “(C) In the case of a health care practitioner
22 who is determined by the Secretary pursuant to sub-
23 section (g)(1)(E) to be a health professional volun-
24 teer at such entity, this subsection applies to the
25 health care practitioner (with respect to services per-

1 formed on behalf of the entity sponsoring the health
2 care practitioner pursuant to subparagraph (B)) for
3 any cause of action arising from an act or omission
4 of the health care practitioner occurring on or after
5 the date on which the Secretary makes such deter-
6 mination.

7 “(D) Subsection (g)(1)(F) applies to a health
8 care practitioner for purposes of this subsection only
9 to the extent that, in providing health services to an
10 individual, each of the conditions specified in para-
11 graph (2) is met.

12 “(4)(A) Amounts in the fund established under sub-
13 section (k)(2) shall be available for transfer under sub-
14 paragraph (C) for purposes of carrying out this sub-
15 section.

16 “(B) Not later than May 1 of each fiscal year, the
17 Attorney General, in consultation with the Secretary, shall
18 submit to the Congress a report providing an estimate of
19 the amount of claims (together with related fees and ex-
20 penses of witnesses) that, by reason of the acts or omis-
21 sions of health professional volunteers, will be paid pursu-
22 ant to this section during the calendar year that begins
23 in the following fiscal year. Subsection (k)(1)(B) applies
24 to the estimate under the preceding sentence regarding
25 health professional volunteers to the same extent and in

1 the same manner as such subsection applies to the esti-
2 mate under such subsection regarding officers, governing
3 board members, employees, and contractors of entities de-
4 scribed in subsection (g)(4).

5 “(C) Not later than December 31 of each fiscal year,
6 the Secretary shall transfer from the fund under sub-
7 section (k)(2) to the appropriate accounts in the Treasury
8 an amount equal to the estimate made under subpara-
9 graph (B) for the calendar year beginning in such fiscal
10 year, subject to the extent of amounts in the fund.

11 “(5)(A) This subsection takes effect on October 1,
12 2012, except as provided in subparagraph (B).

13 “(B) Effective on the date of the enactment of this
14 subsection—

15 “(i) the Secretary may issue regulations for car-
16 rying out this subsection, and the Secretary may ac-
17 cept and consider applications submitted pursuant to
18 paragraph (3)(B); and

19 “(ii) reports under paragraph (4)(B) may be
20 submitted to the Congress.”.

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