

AMENDMENT TO RULES COMMITTEE PRINT 112-

18

OFFERED BY MR. STEARNS OF FLORIDA

At the end of the bill, add the following:

1 **TITLE III—PROTECTIONS FOR**
2 **GOOD SAMARITAN HEALTH**
3 **PROFESSIONALS**

4 **SEC. 301. SHORT TITLE.**

5 This title may be cited as the “Good Samaritan
6 Health Professionals Act of 2012”.

7 **SEC. 302. LIMITATION ON LIABILITY FOR VOLUNTEER**
8 **HEALTH CARE PROFESSIONALS.**

9 (a) IN GENERAL.—Title II of the Public Health Serv-
10 ice Act (42 U.S.C. 202 et seq.) is amended by inserting
11 after section 224 the following:

12 **“SEC. 224A. LIMITATION ON LIABILITY FOR VOLUNTEER**
13 **HEALTH CARE PROFESSIONALS.**

14 “(a) LIMITATION ON LIABILITY.—Except as provided
15 in subsection (b), a health care professional shall not be
16 liable under Federal or State law for any harm caused
17 by an act or omission of the professional if—

18 “(1) the professional is serving as a volunteer
19 for purposes of responding to a disaster; and

1 “(2) the act or omission occurs—

2 “(A) during the period of the disaster, as
3 determined under the laws listed in subsection
4 (e)(1);

5 “(B) in the health care professional’s ca-
6 pacity as such a volunteer; and

7 “(C) in a good faith belief that the indi-
8 vidual being treated is in need of health care
9 services.

10 “(b) EXCEPTIONS.—Subsection (a) does not apply
11 if—

12 “(1) the harm was caused by an act or omission
13 constituting willful or criminal misconduct, gross
14 negligence, reckless misconduct, or a conscious fla-
15 grant indifference to the rights or safety of the indi-
16 vidual harmed by the health care professional; or

17 “(2) the health care professional rendered the
18 health care services under the influence (as deter-
19 mined pursuant to applicable State law) of intoxi-
20 cating alcohol or an intoxicating drug.

21 “(c) STANDARD OF PROOF.—In any civil action or
22 proceeding against a health care professional claiming that
23 the limitation in subsection (a) applies, the plaintiff shall
24 have the burden of proving by clear and convincing evi-
25 dence the extent to which limitation does not apply.

1 “(d) PREEMPTION.—

2 “(1) IN GENERAL.—This section preempts the
3 laws of a State or any political subdivision of a State
4 to the extent that such laws are inconsistent with
5 this section, unless such laws provide greater protec-
6 tion from liability.

7 “(2) VOLUNTEER PROTECTION ACT.—Protec-
8 tions afforded by this section are in addition to those
9 provided by the Volunteer Protection Act of 1997.

10 “(e) DEFINITIONS.—In this section:

11 “(1) The term ‘disaster’ means—

12 “(A) a national emergency declared by the
13 President under the National Emergencies Act;

14 “(B) an emergency or major disaster de-
15 clared by the President under the Robert T.
16 Stafford Disaster Relief and Emergency Assist-
17 ance Act; or

18 “(C) a public health emergency determined
19 by the Secretary under section 319 of this Act.

20 “(2) The term ‘harm’ includes physical, non-
21 physical, economic, and noneconomic losses.

22 “(3) The term ‘health care professional’ means
23 an individual who is licensed, certified, or authorized
24 in one or more States to practice a health care pro-
25 fession.

1 “(4) The term ‘State’ includes each of the sev-
2 eral States, the District of Columbia, the Common-
3 wealth of Puerto Rico, the Virgin Islands, Guam,
4 American Samoa, the Northern Mariana Islands,
5 and any other territory or possession of the United
6 States.

7 “(5)(A) The term ‘volunteer’ means a health
8 care professional who, with respect to the health
9 care services rendered, does not receive—

10 “(i) compensation; or

11 “(ii) any other thing of value in lieu of
12 compensation, in excess of \$500 per year.

13 “(B) For purposes of subparagraph (A), the
14 term ‘compensation’—

15 “(i) includes payment under any insurance
16 policy or health plan, or under any Federal or
17 State health benefits program; and

18 “(ii) excludes—

19 “(I) reasonable reimbursement or al-
20 lowance for expenses actually incurred;

21 “(II) receipt of paid leave; and

22 “(III) receipt of items to be used ex-
23 clusively for rendering the health services
24 in the health care professional’s capacity

1 as a volunteer described in subsection
2 (a)(1).”.

3 (b) EFFECTIVE DATE.—

4 (1) IN GENERAL.—This title and the amend-
5 ment made by subsection (a) shall take effect 90
6 days after the date of the enactment of this title

7 (2) APPLICATION.—This title applies to any
8 claim for harm caused by an act or omission of a
9 health care professional where the claim is filed on
10 or after the effective date of this title, but only if the
11 harm that is the subject of the claim or the conduct
12 that caused such harm occurred on or after such ef-
13 fective date.

