

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 1745  
OFFERED BY M . \_\_\_\_\_**

Strike all after the enacting clause and insert the following:

**1 SEC. 1. SHORT TITLE.**

2 This Act may be cited as the “Family Health Care  
3 Accessibility Act of 2010”.

**4 SEC. 2. LIABILITY PROTECTIONS FOR HEALTH PROFES-  
5 SIONAL VOLUNTEERS AT COMMUNITY  
6 HEALTH CENTERS.**

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

10 “(q)(1) For purposes of this section, a health profes-  
11 sional volunteer at an entity described in subsection (g)(4)  
12 shall in providing a qualifying health service to an indi-  
13 vidual be deemed to be an employee of the Public Health  
14 Service for a calendar year that begins during a fiscal year  
15 for which a transfer was made under paragraph (5)(C).  
16 The preceding sentence is subject to the provisions of this  
17 subsection.

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

6           “(A) The service is provided to the individual at  
7 the facilities of an entity described in subsection  
8 (g)(4), or through offsite programs or events carried  
9 out by the entity.

10          “(B) The entity is sponsoring the health care  
11 practitioner pursuant to paragraph (4)(C).

12          “(C) The service is a qualifying health service  
13 (as defined in paragraph (3)).

14          “(D) The health care practitioner does not re-  
15 ceive any compensation for the service from the indi-  
16 vidual or from any third-party payer (including re-  
17 imbursement under any insurance policy or health  
18 plan, or under any Federal or State health benefits  
19 program), except that the health care practitioner  
20 may receive repayment from the entity described in  
21 subsection (g)(4) for reasonable expenses incurred  
22 by the health care practitioner in the provision of  
23 the service to the individual.

24          “(E) Before the service is provided, the health  
25 care practitioner or the entity described in sub-

1 section (g)(4) posts a clear and conspicuous notice  
2 at the site where the service is provided of the extent  
3 to which the legal liability of the health care practi-  
4 tioner is limited pursuant to this subsection.

5 “(F) At the time the service is provided, the  
6 health care practitioner is licensed or certified in ac-  
7 cordance with applicable law regarding the provision  
8 of the service.

9 “(3) For purposes of this subsection, the term ‘quali-  
10 fying health service’ means any medical assistance re-  
11 quired or authorized to be provided in the program under  
12 title XIX of the Social Security Act, without regard to  
13 whether the medical assistance is included in the plan sub-  
14 mitted under such program by the State in which the  
15 health care practitioner involved provides the medical as-  
16 sistance. References in the preceding sentence to such pro-  
17 gram shall as applicable be considered to be references to  
18 any successor to such program.

19 “(4) Subsection (g) (other than paragraphs (3) and  
20 (5)) and subsections (h), (i), and (l) apply to a health care  
21 practitioner for purposes of this subsection to the same  
22 extent and in the same manner as such subsections apply  
23 to an officer, governing board member, employee, or con-  
24 tractor of an entity described in subsection (g)(4), subject  
25 to paragraph (5) and subject to the following:

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

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

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

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

19           “(C) In the case of a health care practitioner  
20           who is determined by the Secretary pursuant to sub-  
21           section (g)(1)(E) to be a health professional volun-  
22           teer at such entity, this subsection applies to the  
23           health care practitioner (with respect to the entity  
24           sponsoring the health care practitioner pursuant to  
25           subparagraph (B)) for any cause of action arising

1 from an act or omission of the health care practi-  
2 tioner occurring on or after the date on which the  
3 Secretary makes such determination.

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

9 “(5)(A) Amounts in the fund established under sub-  
10 section (k)(2) shall be available for transfer under sub-  
11 paragraph (C) for purposes of carrying out this sub-  
12 section.

13 “(B) Not later May 1 of each fiscal year, the Attor-  
14 ney General, in consultation with the Secretary, shall sub-  
15 mit to the Congress a report providing an estimate of the  
16 amount of claims (together with related fees and expenses  
17 of witnesses) that, by reason of the acts or omissions of  
18 health professional volunteers, will be paid pursuant to  
19 this section during the calendar year that begins in the  
20 following fiscal year. Subsection (k)(1)(B) applies to the  
21 estimate under the preceding sentence regarding health  
22 professional volunteers to the same extent and in the same  
23 manner as such subsection applies to the estimate under  
24 such subsection regarding officers, governing board mem-

1 bers, employees, and contractors of entities described in  
2 subsection (g)(4).

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

9 “(6)(A) This subsection takes effect on October 1,  
10 2011, except as provided in subparagraph (B).

11 “(B) Effective on the date of the enactment of this  
12 subsection—

13 “(i) the Secretary may issue regulations for car-  
14 rying out this subsection, and the Secretary may ac-  
15 cept and consider applications submitted pursuant to  
16 paragraph (4)(C); and

17 “(ii) reports under paragraph (5)(B) may be  
18 submitted to the Congress.”.

