

COMMITTEE PRINT

[SHOWING THE TEXT OF H.R. 1745 AS FAVORABLY FORWARDED BY THE
SUBCOMMITTEE ON HEALTH ON JULY 22, 2010]

111TH CONGRESS
1ST SESSION

H. R. 1745

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 HOUSE OF REPRESENTATIVES

MARCH 26, 2009

Mr. TIM MURPHY of Pennsylvania (for himself and Mr. GENE GREEN of
Texas) introduced the following bill; which was referred to the Committee
on Energy and Commerce

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 2010”.

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 qualifying health service to an indi-
10 vidual be deemed to be an employee of the Public Health
11 Service for a calendar year that begins during a fiscal year
12 for which a transfer was made under paragraph (5)(C).
13 The preceding sentence is subject to the provisions of this
14 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 (4)(C).

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

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

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

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

23 “(3) For purposes of this subsection, the term ‘quali-
24 fying health service’ means any medical assistance re-
25 quired or authorized to be provided in the program under

1 title XIX of the Social Security Act, without regard to
2 whether the medical assistance is included in the plan sub-
3 mitted under such program by the State in which the
4 health care practitioner involved provides the medical as-
5 sistance. References in the preceding sentence to such pro-
6 gram shall as applicable be considered to be references to
7 any successor to such program.

8 “(4) Subsection (g) (other than paragraphs (3) and
9 (5)) and subsections (h), (i), and (l) apply to a health care
10 practitioner for purposes of this subsection to the same
11 extent and in the same manner as such subsections apply
12 to an officer, governing board member, employee, or con-
13 tractor of an entity described in subsection (g)(4), subject
14 to paragraph (5) and subject to the following:

15 “(A) The first sentence of paragraph (1) ap-
16 plies in lieu of the first sentence of subsection
17 (g)(1)(A).

18 “(B) With respect to an entity described in sub-
19 section (g)(4), a health care practitioner is not a
20 health professional volunteer at such entity unless
21 the entity sponsors the health care practitioner. For
22 purposes of this subsection, the entity shall be con-
23 sidered to be sponsoring the health care practitioner
24 if—

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

5 “(ii) the Secretary, pursuant to subsection
6 (g)(1)(E), determines that the health care prac-
7 titioner is deemed to be an employee of the
8 Public Health Service.

9 “(C) In the case of a health care practitioner
10 who is determined by the Secretary pursuant to sub-
11 section (g)(1)(E) to be a health professional volun-
12 teer at such entity, this subsection applies to the
13 health care practitioner (with respect to the entity
14 sponsoring the health care practitioner pursuant to
15 subparagraph (B)) for any cause of action arising
16 from an act or omission of the health care practi-
17 tioner occurring on or after the date on which the
18 Secretary makes such determination.

19 “(D) Subsection (g)(1)(F) applies to a health
20 care practitioner for purposes of this subsection only
21 to the extent that, in providing health services to an
22 individual, each of the conditions specified in para-
23 graph (2) is met.

24 “(5)(A) Amounts in the fund established under sub-
25 section (k)(2) shall be available for transfer under sub-

1 paragraph (C) for purposes of carrying out this sub-
2 section.

3 “(B) Not later May 1 of each fiscal year, the Attor-
4 ney General, in consultation with the Secretary, shall sub-
5 mit to the Congress a report providing an estimate of the
6 amount of claims (together with related fees and expenses
7 of witnesses) that, by reason of the acts or omissions of
8 health professional volunteers, will be paid pursuant to
9 this section during the calendar year that begins in the
10 following fiscal year. Subsection (k)(1)(B) applies to the
11 estimate under the preceding sentence regarding health
12 professional volunteers to the same extent and in the same
13 manner as such subsection applies to the estimate under
14 such subsection regarding officers, governing board mem-
15 bers, employees, and contractors of entities described in
16 subsection (g)(4).

17 “(C) Not later than December 31 of each fiscal year,
18 the Secretary shall transfer from the fund under sub-
19 section (k)(2) to the appropriate accounts in the Treasury
20 an amount equal to the estimate made under subpara-
21 graph (B) for the calendar year beginning in such fiscal
22 year, subject to the extent of amounts in the fund.

23 “(6)(A) This subsection takes effect on October 1,
24 2011, except as provided in subparagraph (B).

1 “(B) Effective on the date of the enactment of this
2 subsection—

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

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