

**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 2405  
OFFERED BY MR. STEARNS OF FLORIDA**

Page 31, after line 19, insert the following section:

1 **SEC. 7. LIMITATION ON LIABILITY FOR VOLUNTEER**

2 **HEALTH CARE PROFESSIONALS.**

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

6 **“SEC. 224A. LIMITATION ON LIABILITY FOR VOLUNTEER**

7 **HEALTH CARE PROFESSIONALS.**

8 “(a) LIMITATION ON LIABILITY.—Except as provided  
9 in subsection (b), a health care professional shall not be  
10 liable under Federal or State law for any harm caused  
11 by an act or omission of the professional in rendering  
12 qualified volunteer health care services to a victim of a  
13 disaster.

14 “(b) EXCEPTIONS.—Subsection (a) does not apply  
15 if—

16 “(1) the harm was caused by an act or omission  
17 constituting willful or criminal misconduct, gross  
18 negligence, reckless misconduct, or a conscious fla-

1 grant indifference to the rights or safety of the indi-  
2 vidual harmed by the health care professional; or

3 “(2) the health care professional rendered the  
4 health care services under the influence (as deter-  
5 mined pursuant to applicable State law) of intoxi-  
6 cating alcohol or any drug.

7 “(c) PREEMPTION.—

8 “(1) IN GENERAL.—This section preempts the  
9 laws of any State to the extent that such laws are  
10 inconsistent with this section. This section does not  
11 preempt the laws of any State if such laws provide  
12 additional protection from liability.

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

16 “(d) DEFINITIONS.—In this section:

17 “(1) The term ‘disaster’ means—

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

20 “(B) an emergency or major disaster de-  
21 clared by the President under the Robert T.  
22 Stafford Disaster Relief and Emergency Assist-  
23 ance Act; or

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

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

3           “(3) The term ‘health care professional’—

4                   “(A) means an individual who is properly  
5                   licensed, certified, or authorized in one or more  
6                   States or in a foreign country to practice a  
7                   health care profession; and

8                   “(B) consistent with subparagraph (A), in-  
9                   cludes a physician, nurse, or pharmacist.

10           “(4) The term ‘qualified volunteer health serv-  
11           ices’ means health care services that are rendered—

12                   “(A) in the health care professional’s ca-  
13                   pacity as a volunteer;

14                   “(B) before the end of the period of a dis-  
15                   aster, as determined under the laws listed in  
16                   paragraph (1); and

17                   “(C) for the sole purpose of responding to  
18                   such disaster.

19           “(5) The term ‘State’ includes each of the sev-  
20           eral States, the District of Columbia, the Common-  
21           wealth of Puerto Rico, the Virgin Islands, Guam,  
22           American Samoa, the Northern Mariana Islands,  
23           and any other territory or possession of the United  
24           States.

1           “(6) The term ‘volunteer’ means a health care  
2 professional who, with respect to the health care  
3 services rendered, does not receive—

4                   “(A) compensation (other than reasonable  
5 reimbursement or allowance for expenses actu-  
6 ally incurred); or

7                   “(B) any other thing of value in lieu of  
8 compensation, in excess of \$500 per year.”.

9 (b) EFFECTIVE DATE.—

10           (1) IN GENERAL.—This section and the amend-  
11 ment made by subsection (a) shall take effect 90  
12 days after the date of the enactment of this Act.

13           (2) APPLICATION.—This section applies to any  
14 claim for harm caused by an act or omission of a  
15 health care professional where the claim is filed on  
16 or after the effective date of this Act, but only if the  
17 harm that is the subject of the claim or the conduct  
18 that caused such harm occurred on or after such ef-  
19 fective date.

