

As Reported by the Senate Judiciary--Civil Justice Committee

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Sub. S. B. No. 86

Senator Buehrer

**Cosponsors: Senators Coughlin, Faber, Gibbs, Goodman, Husted, Schaffer,
Schuler, Schuring, Stewart, Turner, Widener**

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A B I L L

To enact section 2305.2310 of the Revised Code to 1
grant qualified civil immunity to a physician, 2
physician assistant, dentist, or optometrist who 3
provides emergency medical services, first-aid 4
treatment, or other emergency professional care in 5
compliance with the federal Emergency Medical 6
Treatment and Active Labor Act or as a result of a 7
disaster and to a certified nurse-midwife, 8
certified nurse practitioner, clinical nurse 9
specialist, or registered nurse who provides 10
emergency services, first-aid treatment, or other 11
emergency professional care as a result of a 12
disaster and to provide that these provisions do 13
not apply to wrongful death actions. 14

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2305.2310 of the Revised Code be 15
enacted to read as follows: 16

Sec. 2305.2310. (A) As used in this section: 17

(1) "Dentist" has the same meaning as in section 2305.231 of 18

the Revised Code. 19

(2) "Disaster" means any imminent threat or actual occurrence 20
of widespread or severe damage to or loss of property, personal 21
hardship or injury, or loss of life that results from any natural 22
phenomenon or act of a human. 23

(3) "Medical claim" has the same meaning as in section 24
2305.113 of the Revised Code. 25

(4) "Optometrist" means a person who is licensed under 26
Chapter 4725. of the Revised Code to practice optometry. 27

(5) "Physician" means an individual authorized under Chapter 28
4731. of the Revised Code to practice medicine and surgery, 29
osteopathic medicine and surgery, or podiatric medicine and 30
surgery. 31

(6) "Reckless disregard" as it applies to a given physician, 32
physician assistant, dentist, or optometrist rendering emergency 33
medical services means conduct that a physician, physician 34
assistant, dentist, or optometrist knew or should have known, at 35
the time those services were rendered, created an unreasonable 36
risk of injury, death, or loss to person or property so as to 37
affect the life or health of another and that risk was 38
substantially greater than that which is necessary to make the 39
conduct negligent. 40

(7) "Registered nurse" means an individual who holds a 41
current, valid license issued under Chapter 4723. of the Revised 42
Code that authorizes the practice of nursing as a registered 43
nurse. 44

(8) "Tort action" means a civil action for damages for 45
injury, death, or loss to person or property other than a civil 46
action for damages for a breach of contract or another agreement 47
between persons or governmental entities. "Tort action" includes 48
an action on a medical claim. 49

(B)(1) Subject to division (C)(3) of this section, a physician, physician assistant, dentist, or optometrist who provides emergency medical services, first-aid treatment, or other emergency professional care, including the provision of any medication or other medical product, in compliance with the "Emergency Medical Treatment and Active Labor Act," 100 Stat. 164 (1986), 42 U.S.C. 1395dd, as amended, is not liable in damages to any person in a tort action for injury, death, or loss to person or property that allegedly arises from an act or omission of the physician, physician assistant, dentist, or optometrist in the physician's, physician assistant's, dentist's, or optometrist's provision of those services or that treatment or care if that act or omission does not constitute a reckless disregard for the consequences so as to affect the life or health of the patient.

(2) Subject to division (C)(3) of this section, a physician, physician assistant, dentist, or optometrist who provides emergency medical services, first-aid treatment, or other emergency professional care, including the provision of any medication or other medical product, as a result of a disaster is not liable in damages to any person in a tort action for injury, death, or loss to person or property that allegedly arises from an act or omission of the physician, physician assistant, dentist, or optometrist in the physician's, physician assistant's, dentist's, or optometrist's provision of those services or that treatment or care if that act or omission does not constitute willful or wanton misconduct.

(3) Subject to division (C)(3) of this section, a certified nurse-midwife, certified nurse practitioner, clinical nurse specialist, or registered nurse who provides emergency services, first-aid treatment, or other emergency professional care, including the administration or provision of any medication or other medical product, as a result of a disaster is not liable in

damages to any person in a tort action for injury, death, or loss 82
to person or property that allegedly arises from an act or 83
omission of the certified nurse-midwife, certified nurse 84
practitioner, clinical nurse specialist, or registered nurse in 85
the provision of those services or that treatment or care if that 86
act or omission does not constitute willful or wanton misconduct. 87

(C)(1) This section does not create a new cause of action or 88
substantive legal right against a physician, physician assistant, 89
dentist, or optometrist certified nurse-midwife, certified nurse 90
practitioner, clinical nurse specialist, or registered nurse. 91

(2) This section does not affect any immunities from civil 92
liability or defenses established by another section of the 93
Revised Code or available at common law to which a physician, 94
physician assistant, dentist, or optometrist may be entitled in 95
connection with the provision of emergency medical services, 96
first-aid treatment, or other emergency professional care. This 97
section does not affect any immunities from civil liability or 98
defenses established by another section of the Revised Code or 99
available at common law to which a certified nurse-midwife, 100
certified nurse practitioner, clinical nurse specialist, or 101
registered nurse may be entitled in connection with the provision 102
of emergency services, first-aid treatment, or other emergency 103
professional care. 104

(3) This section does not grant an immunity from tort or 105
other civil liability to a physician, physician assistant, 106
dentist, or optometrist for actions that are outside the scope of 107
authority of the physician, physician assistant, dentist, or 108
optometrist. This section does not grant an immunity from tort or 109
other civil liability to a certified nurse-midwife, certified 110
nurse practitioner, clinical nurse specialist, or registered nurse 111
for actions that are outside the scope of authority of the 112
certified nurse-midwife, certified nurse practitioner, clinical 113

nurse specialist, or registered nurse. 114

(4) This section does not affect any legal responsibility of 115
a physician, physician assistant, dentist, or optometrist 116
certified nurse-midwife, certified nurse practitioner, clinical 117
nurse specialist, or registered nurse to comply with any 118
applicable law of this state or rule of an agency of this state. 119

(D) This section does not apply to a tort action alleging 120
wrongful death against a physician, physician assistant, dentist, 121
or optometrist who provides emergency medical services, first-aid 122
treatment, or other emergency medical care, including the 123
provision of any medication or other medical product that 124
allegedly arises from an act or omission of the physician, 125
physician assistant, dentist, or optometrist in the physician's, 126
physician assistant's, dentist's, or optometrist's provision of 127
those services or that treatment or care or as a result of a 128
disaster or against a certified nurse-midwife, certified nurse 129
practitioner, clinical nurse specialist, or registered nurse who 130
provides emergency services, first-aid treatment, or other 131
emergency professional care, including the administration or 132
provision of any medication or other medical product, as a result 133
of a disaster. 134