

**As Introduced**

**129th General Assembly  
Regular Session  
2011-2012**

**S. B. No. 129**

**Senators Bacon, Hite**

**Cosponsors: Senators Schaffer, Stewart, Obhof, Jordan, Lehner, Gillmor,  
Widener**

**—**

**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, dental, or optometric 4  
services, first-aid treatment, or other emergency 5  
professional care in compliance with the federal 6  
Emergency Medical Treatment and Active Labor Act 7  
or as a result of a disaster and to a certified 8  
nurse-midwife, certified nurse practitioner, 9  
clinical nurse specialist, or registered nurse who 10  
provides emergency services, first-aid treatment, 11  
or other emergency professional care as a result 12  
of a disaster and to provide that these provisions 13  
do 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," "dental claim," and "optometric claim" 24  
have the same meanings as in section 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, dental, or optometric services, whichever are applicable, 34  
means conduct that a physician, physician assistant, dentist, or 35  
optometrist knew or should have known, at the time those services 36  
were rendered, created an unreasonable risk of injury, death, or 37  
loss to person or property so as to affect the life or health of 38  
another and that risk was substantially greater than that which is 39  
necessary to make the 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, dental claim, or optometric claim. 49

(B)(1) Subject to division (C)(3) of this section, a 50  
physician, physician assistant, dentist, or optometrist who 51  
provides emergency medical, dental, or optometric services, 52  
whichever are applicable, first-aid treatment, or other emergency 53  
professional care, including the provision of any medication or 54  
other medical, dental, or optometric product, in compliance with 55  
the "Emergency Medical Treatment and Active Labor Act," 100 Stat. 56  
164 (1986), 42 U.S.C. 1395dd, as amended, is not liable in damages 57  
to any person in a tort action for injury, death, or loss to 58  
person or property that allegedly arises from an act or omission 59  
of the physician, physician assistant, dentist, or optometrist in 60  
the physician's, physician assistant's, dentist's, or 61  
optometrist's provision of those services or that treatment or 62  
care if that act or omission does not constitute a reckless 63  
disregard for the consequences so as to affect the life or health 64  
of the patient. 65

(2) Subject to division (C)(3) of this section, a physician, 66  
physician assistant, dentist, or optometrist who provides 67  
emergency medical, dental, or optometric services, whichever are 68  
applicable, first-aid treatment, or other emergency professional 69  
care, including the provision of any medication or other medical, 70  
dental, or optometric product, as a result of a disaster is not 71  
liable in damages to any person in a tort action for injury, 72  
death, or loss to person or property that allegedly arises from an 73  
act or omission of the physician, physician assistant, dentist, or 74  
optometrist in the physician's, physician assistant's, dentist's, 75  
or optometrist's provision of those services or that treatment or 76  
care if that act or omission does not constitute willful or wanton 77  
misconduct. 78

(3) Subject to division (C)(3) of this section, a certified 79  
nurse-midwife, certified nurse practitioner, clinical nurse 80  
specialist, or registered nurse who provides emergency services, 81

first-aid treatment, or other emergency professional care, 82  
including the administration or provision of any medication or 83  
other medical product, as a result of a disaster is not liable in 84  
damages to any person in a tort action for injury, death, or loss 85  
to person or property that allegedly arises from an act or 86  
omission of the certified nurse-midwife, certified nurse 87  
practitioner, clinical nurse specialist, or registered nurse in 88  
the provision of those services or that treatment or care if that 89  
act or omission does not constitute willful or wanton misconduct. 90

(C)(1) This section does not create a new cause of action or 91  
substantive legal right against a physician, physician assistant, 92  
dentist, optometrist, certified nurse-midwife, certified nurse 93  
practitioner, clinical nurse specialist, or registered nurse. 94

(2) This section does not affect any immunities from civil 95  
liability or defenses established by another section of the 96  
Revised Code or available at common law to which a physician, 97  
physician assistant, dentist, or optometrist may be entitled in 98  
connection with the provision of emergency medical, dental, or 99  
optometric services, whichever are applicable, first-aid 100  
treatment, or other emergency professional care. This section does 101  
not affect any immunities from civil liability or defenses 102  
established by another section of the Revised Code or available at 103  
common law to which a certified nurse-midwife, certified nurse 104  
practitioner, clinical nurse specialist, or registered nurse may 105  
be entitled in connection with the provision of emergency 106  
services, first-aid treatment, or other emergency professional 107  
care. 108

(3) This section does not grant an immunity from tort or 109  
other civil liability to a physician, physician assistant, 110  
dentist, or optometrist for actions that are outside the scope of 111  
authority of the physician, physician assistant, dentist, or 112  
optometrist. This section does not grant an immunity from tort or 113

other civil liability to a certified nurse-midwife, certified  
nurse practitioner, clinical nurse specialist, or registered nurse  
for actions that are outside the scope of authority of the  
certified nurse-midwife, certified nurse practitioner, clinical  
nurse specialist, or registered nurse. 114  
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(4) This section does not affect any legal responsibility of  
a physician, physician assistant, dentist, optometrist, certified  
nurse-midwife, certified nurse practitioner, clinical nurse  
specialist, or registered nurse to comply with any applicable law  
of this state or rule of an agency of this state. 119  
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(D) This section does not apply to a tort action alleging  
wrongful death against a physician, physician assistant, dentist,  
or optometrist who provides emergency medical, dental, or  
optometric services, whichever are applicable, first-aid  
treatment, or other emergency medical care, including the  
provision of any medication or other medical, dental, or  
optometric product 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 or as a result of a disaster or against 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. 124  
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