A BILL

To amend section 2305.2311 and to enact section 2305.2312 of the Revised Code to revise the law governing immunity from civil liability and professional discipline for health care providers during disasters or emergencies, to provide qualified civil immunity to service providers providing services during and after a government-declared disaster, and to declare an emergency.

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

Section 1. That section 2305.2311 be amended and section 2305.2312 of the Revised Code be enacted to read as follows:

Sec. 2305.2311. (A) As used in this section:

(1) "Advanced practice registered nurse" means an individual who holds a current, valid license issued under Chapter 4723. of the Revised Code to practice as an advanced practice registered nurse.

(2) "Chief executive" and "emergency" have the same meanings as in section 5502.21 of the Revised Code.
(3) "Dentist" has the same meaning as in section 2305.231 of the Revised Code.

(4) "Disaster" means any occurrence of widespread personal injury or loss of life that results from any natural or technological phenomenon or act of a human, or an epidemic and is declared to be a disaster by the federal government, the state government, or a political subdivision of this state.

(5) "Emergency medical technician" means an EMT-basic, an EMT-I, or a paramedic.

(6) "EMT-basic" means an individual who holds a current, valid certificate issued under section 4765.30 of the Revised Code to practice as an emergency medical technician-basic.

(7) "EMT-I" means an individual who holds a current, valid certificate issued under section 4765.30 of the Revised Code to practice as an emergency medical technician-intermediate.

(8) "Facility" means an institution or setting where health care services are provided, including a hospital, inpatient, ambulatory, surgical, treatment, skilled nursing, nursing, residential care, residential treatment, or intermediate care facility; a developmental, diagnostic, laboratory, or imaging center; a rehabilitation or therapeutic health setting; or any modular field treatment facility or alternative care site designated for temporary use for the purposes of providing health care services in response to a disaster or emergency.

(9) "Health care provider" means an advanced practice registered nurse, a registered nurse, a licensed
practical nurse, a pharmacist, a dentist, an optometrist, a physician, a physician assistant, or a hospital respiratory care professional.

(8) (10) "Health care provider" means a health care professional, health care worker, or emergency medical technician or a home health agency, hospice care program, or facility, including any agent, board member, committee member, employee, officer, or volunteer acting in the course of the individual's service or employment.

(11) "Health care services" means services rendered by a health care provider for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease, including the provision of any medication, medical equipment, or other medical product.

(12) "Health care worker" means a person other than a health care professional or emergency medical technician who provides medical, dental, or other health care services under the direction of a health care professional authorized to direct the individual's activities. "Health care worker" includes a medical technician, medical assistant, dental assistant, orderly, nurse aide, and any other individual acting in a similar capacity.

(13) "Hospice care program" has the same meaning as in section 3712.01 of the Revised Code.

(14) "Hospital" and "medical claim" have the same meanings as in section 2305.113 of the Revised Code.

(15) "Home health agency" has the same meaning as in section 3701.881 of the Revised Code.

(16) "Licensed practical nurse" means an individual who
holds a current, valid license issued under Chapter 4723. of the Revised Code to practice as a licensed practical nurse.

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

(10) (18) "Paramedic" means an individual who holds a current, valid certificate issued under section 4765.30 of the Revised Code to practice as an emergency medical technician-paramedic.

(11) (19) "Pharmacist" means an individual who holds a current, valid license issued under Chapter 4729. of the Revised Code to practice as a pharmacist.

(12) (20) "Physician" means an individual who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(13) (21) "Physician assistant" means an individual who is authorized under Chapter 4730. of the Revised Code to practice as a physician assistant.

(14) "Reckless disregard" as it applies to a given health-care provider or emergency medical technician rendering emergency medical services, first-aid treatment, or other emergency professional care, including the provision of any medication or other medical product, means conduct that a health-care provider or emergency medical technician knew or should have known, at the time those services or that treatment or care were rendered, created an unreasonable risk of injury, death, or loss to person or property so as to affect the life or health of another and that risk was substantially greater than that which is necessary to make the conduct negligent.
(15) "Registered nurse" means an individual who holds a current, valid license issued under Chapter 4723. of the Revised Code to practice as a registered nurse.

(16) "Respiratory care professional" has the same meaning as in section 4761.01 of the Revised Code.

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

(B)(1) Subject to division (C)(3) of this section, a health care provider or emergency medical technician that provides health care services, emergency medical services, first-aid treatment, or other emergency professional care, including the provision of any medication or other medical equipment or product, as a result of during or in response to a disaster or emergency is not subject to professional disciplinary action and is not liable in damages to any person or government agency in a tort or other civil action for injury, death, or loss to person or property that allegedly arises from any of the following:

(a) An act or omission of the health care provider or emergency medical technician in the health care provider's or emergency medical technician's provision, withholding, or withdrawal of those services or that treatment or care;

(b) Any decision related to the provision, withholding, or withdrawal of those services;

(c) Compliance with an executive order or director's order issued during and in response to the disaster or emergency.
(2) Division (B)(1) does not apply if that act or omission does not constitute reckless disregard for the consequences so as to affect the life or health of the patient, decision, or compliance constitutes willful or wanton misconduct.

(C)(1) This section does not create a new cause of action or substantive legal right against a health care provider or emergency medical technician.

(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which a health care provider or emergency medical technician may be entitled in connection with the provision of health care services, emergency medical services, first-aid treatment, or other emergency professional care, including the provision of medication, medical equipment, or other medical product.

(3) This section does not grant an immunity from tort or other civil liability or a professional disciplinary action to a health care provider or emergency medical technician for actions that are outside the scope of authority, skills, education, and training of the health care provider or emergency medical technician.

(4) This section does not affect any legal responsibility of a health care provider or emergency medical technician to comply with any applicable law of this state or rule of an agency of this state.

(5) This Division (B) of this section applies only to the provision, withholding, or withdrawal of health care services, emergency medical services, first-aid treatment, or other
emergency professional care, including the provision of any medication or other medical equipment or product, decisions related to such services or care, or compliance with an executive order or director's order by a health care provider or emergency medical technician as a result of during and in response to a disaster or emergency and through the duration of the disaster or emergency.

(D) This section does not apply to a tort action alleging wrongful death against a health care provider or emergency medical technician that provides emergency medical services, first-aid treatment, or other emergency professional care, including the provision of any medication or other medical product, that allegedly arises from an act or omission of the health care provider or emergency medical technician in the health care provider's or emergency medical technician's provision of those services or that treatment or care as a result of a disaster.

Sec. 2305.2312. (A) As used in this section:

(1) "Disaster" has the same meaning as in section 2305.2311 of the Revised Code.

(2) "Person" has the same meaning as in section 1.59 of the Revised Code.

(3) "Product" has the same meaning as in section 2307.71 of the Revised Code.

(4) "Services" means providing lodging, sheltering, groceries, pharmaceutical products, fuel products, other products, retail merchandise, manufacturing, care, religious or nonprofit services, or other acts that are part of or outside the normal scope of a person's business or nonprofit activities.
during the period of a declared disaster and not more than one
hundred eighty days after the end of the period of the declared
disaster.

(5) "Service provider" means any person providing the
services described in division (A)(4) of this section, including
that person's owner, officer, director, employee, or agent.

(B) Except as provided in division (D) of this section, no
service provider shall be liable in damages to any person in a
civil action for illness or for injury, death, or loss to person
or property, allegedly arising from the service provider's act
or omission in providing or performing the service provider's
services that are in response to a disaster or are intended to
assist persons to recover from a disaster or otherwise sustain
themselves during the period of the declared disaster and not
more than one hundred eighty days after the end of the period of
the declared disaster.

(C) Except as provided in division (D) of this section, no
service provider shall be liable in damages to any person in a
civil action for injury, death, or loss to person or property
resulting from, or related to, the person's actual or alleged
exposure to an illness in the course of or through that service
provider's provision of services.

(D) The immunity granted to a service provider in division
(B) or (C) of this section does not apply if it is established
by clear and convincing evidence that the service provider's act
or omission is intentional, willful, or wanton misconduct.

(E) This section does not do either of the following:

(1) Create a new cause of action or substantive legal
right against any person:
(2) Affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to a service provider that provides services under this section.

(F) The immunity conferred in this section shall also apply to any cause of action against a service provider for contribution or indemnity for damages sustained by any person during the period of the disaster and not more than one hundred eighty days after the end of the period of the disaster.

Section 2. That existing section 2305.2311 of the Revised Code is hereby repealed.

Section 3. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that it is crucial to provide immunity in response to a disaster declared by the federal government, state government, or political subdivision of the state. Therefore, this act shall go into immediate effect.

Section 4. This act applies retroactively to the date a disaster is declared by the federal government, state government, or political subdivision of the state.