

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**S. B. No. 308**

**Senator Huffman, M.**

**Cosponsors: Senators Huffman, S., Roegner, Hottinger, Hackett, Schuring**

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**A BILL**

To amend section 2305.2311 and to enact section 1  
2305.2312 of the Revised Code to revise the law 2  
governing immunity from civil liability and 3  
professional discipline for health care 4  
providers during disasters or emergencies, to 5  
provide qualified civil immunity to service 6  
providers providing services during and after a 7  
government-declared disaster, and to declare an 8  
emergency. 9

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

**Section 1.** That section 2305.2311 be amended and section 10  
2305.2312 of the Revised Code be enacted to read as follows: 11

**Sec. 2305.2311.** (A) As used in this section: 12

(1) "Advanced practice registered nurse" means an 13  
individual who holds a current, valid license issued under 14  
Chapter 4723. of the Revised Code to practice as an advanced 15  
practice registered nurse. 16

(2) "Chief executive" and "emergency" have the same 17  
meanings as in section 5502.21 of the Revised Code. 18

(3) "Dentist" has the same meaning as in section 2305.231  
of the Revised Code. 19  
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~~(3)~~ (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. 21  
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~~(4)~~ (5) "Emergency medical technician" means an EMT-basic,  
an EMT-I, or a paramedic. 26  
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~~(5)~~ (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. 28  
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~~(6)~~ (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. 32  
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~~(7)~~ (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. 36  
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(9) "Health care ~~provider~~ professional" means an advanced  
practice registered nurse, a registered nurse, a licensed 46  
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practical nurse, a pharmacist, a dentist, an optometrist, a 48  
physician, a physician assistant, or a ~~hospital~~respiratory care 49  
professional. 50

~~(8)~~(10) "Health care provider" means a health care 51  
professional, health care worker, or emergency medical 52  
technician or a home health agency, hospice care program, or 53  
facility, including any agent, board member, committee member, 54  
employee, officer, or volunteer acting in the course of the 55  
individual's service or employment. 56

(11) "Health care services" means services rendered by a 57  
health care provider for the diagnosis, prevention, treatment, 58  
cure, or relief of a health condition, illness, injury, or 59  
disease, including the provision of any medication, medical 60  
equipment, or other medical product. 61

(12) "Health care worker" means a person other than a 62  
health care professional or emergency medical technician who 63  
provides medical, dental, or other health care services under 64  
the direction of a health care professional authorized to direct 65  
the individual's activities. "Health care worker" includes a 66  
medical technician, medical assistant, dental assistant, 67  
orderly, nurse aide, and any other individual acting in a 68  
similar capacity. 69

(13) "Hospice care program" has the same meaning as in 70  
section 3712.01 of the Revised Code. 71

(14) "Hospital" and "medical claim" have the same meanings 72  
as in section 2305.113 of the Revised Code. 73

~~(9)~~(15) "Home health agency" has the same meaning as in 74  
section 3701.881 of the Revised Code. 75

(16) "Licensed practical nurse" means an individual who 76

holds a current, valid license issued under Chapter 4723. of the 77  
Revised Code to practice as a licensed practical nurse. 78

(17) "Optometrist" means a person who is licensed under 79  
Chapter 4725. of the Revised Code to practice optometry. 80

~~(10)~~(18) "Paramedic" means an individual who holds a 81  
current, valid certificate issued under section 4765.30 of the 82  
Revised Code to practice as an emergency medical technician- 83  
paramedic. 84

~~(11)~~(19) "Pharmacist" means an individual who holds a 85  
current, valid license issued under Chapter 4729. of the Revised 86  
Code to practice as a pharmacist. 87

~~(12)~~(20) "Physician" means an individual who is 88  
authorized under Chapter 4731. of the Revised Code to practice 89  
medicine and surgery, osteopathic medicine and surgery, or 90  
podiatric medicine and surgery. 91

~~(13)~~(21) "Physician assistant" means an individual who is 92  
authorized under Chapter 4730. of the Revised Code to practice 93  
as a physician assistant. 94

~~(14)~~ "Reckless disregard" as it applies to a given health- 95  
care provider or emergency medical technician rendering 96  
emergency medical services, first aid treatment, or other 97  
emergency professional care, including the provision of any 98  
medication or other medical product, means conduct that a health 99  
care provider or emergency medical technician knew or should 100  
have known, at the time those services or that treatment or care 101  
were rendered, created an unreasonable risk of injury, death, or 102  
loss to person or property so as to affect the life or health of 103  
another and that risk was substantially greater than that which 104  
is necessary to make the conduct negligent. 105

~~(15)~~ (22) "Registered nurse" means an individual who holds 106  
a current, valid license issued under Chapter 4723. of the 107  
Revised Code to practice as a registered nurse. 108

~~(16)~~ (23) "Respiratory care professional" has the same 109  
meaning as in section 4761.01 of the Revised Code. 110

(24) "Tort action" means a civil action for damages for 111  
injury, death, or loss to person or property other than a civil 112  
action for damages for a breach of contract or another agreement 113  
between persons or governmental entities. "Tort action" includes 114  
an action on a medical claim. 115

(B) (1) Subject to division (C) (3) of this section, a 116  
health care provider ~~or emergency medical technician~~ that 117  
provides health care services, emergency medical services, 118  
first-aid treatment, or other emergency professional care, 119  
including the provision of any medication or other medical 120  
equipment or product, as a result of during or in response to a 121  
disaster or emergency is not subject to professional 122  
disciplinary action and is not liable in damages to any person 123  
or government agency in a tort or other civil action for injury, 124  
death, or loss to person or property that allegedly arises from 125  
an any of the following: 126

(a) An act or omission of the health care provider ~~or~~ 127  
~~emergency medical technician~~ in the health care provider's ~~or~~ 128  
~~emergency medical technician's~~ provision, withholding, or 129  
withdrawal of those services ~~or that treatment or care;~~ 130

(b) Any decision related to the provision, withholding, or 131  
withdrawal of those services; 132

(c) Compliance with an executive order or director's order 133  
issued during and in response to the disaster or emergency. 134

(2) Division (B) (1) does not apply if that act or, 135  
omission does not constitute reckless disregard for the 136  
consequences so as to affect the life or health of the patient, 137  
decision, or compliance constitutes willful or wanton 138  
misconduct. 139

(C) (1) This section does not create a new cause of action 140  
or substantive legal right against a health care provider ~~or~~ 141  
~~emergency medical technician.~~ 142

(2) This section does not affect any immunities from civil 143  
liability or defenses established by another section of the 144  
Revised Code or available at common law to which a health care 145  
provider ~~or emergency medical technician~~ may be entitled in 146  
connection with the provision of health care services, emergency 147  
medical services, first-aid treatment, or other emergency 148  
professional care, including the provision of medication,  149  
medical equipment, or other medical product. 150

(3) This section does not grant an immunity from tort or 151  
other civil liability or a professional disciplinary action to a 152  
health care provider ~~or emergency medical technician~~ for actions 153  
that are outside the ~~scope of authority~~ skills, education, and 154  
training of the health care provider ~~or emergency medical~~ 155  
~~technician.~~ 156

(4) This section does not affect any legal responsibility 157  
of a health care provider ~~or emergency medical technician~~ to 158  
comply with any applicable law of this state or rule of an 159  
agency of this state. 160

(5) ~~This Division (B) of this section~~ applies only to the 161  
provision, withholding, or withdrawal of health care services, 162  
emergency medical services, first-aid treatment, or other 163

emergency professional care, including the provision of any 164  
medication or other medical equipment or product, decisions 165  
related to such services or care, or compliance with an 166  
executive order or director's order by a health care provider ~~or~~ 167  
~~emergency medical technician as a result of~~ during and in 168  
response to a disaster or emergency and through the duration of 169  
the disaster or emergency. 170

~~(D) This section does not apply to a tort action alleging~~ 171  
~~wrongful death against a health care provider or emergency~~ 172  
~~medical technician that provides emergency medical services,~~ 173  
~~first aid treatment, or other emergency professional care,~~ 174  
~~including the provision of any medication or other medical~~ 175  
~~product, that allegedly arises from an act or omission of the~~ 176  
~~health care provider or emergency medical technician in the~~ 177  
~~health care provider's or emergency medical technician's~~ 178  
~~provision of those services or that treatment or care as a~~ 179  
~~result of a disaster.~~ 180

**Sec. 2305.2312.** (A) As used in this section: 181

(1) "Disaster" has the same meaning as in section 182  
2305.2311 of the Revised Code. 183

(2) "Person" has the same meaning as in section 1.59 of 184  
the Revised Code. 185

(3) "Product" has the same meaning as in section 2307.71 186  
of the Revised Code. 187

(4) "Services" means providing lodging, sheltering, 188  
groceries, pharmaceutical products, fuel products, other 189  
products, retail merchandise, manufacturing, care, religious or 190  
nonprofit services, or other acts that are part of or outside 191  
the normal scope of a person's business or nonprofit activities 192

during the period of a declared disaster and not more than one 193  
hundred eighty days after the end of the period of the declared 194  
disaster. 195

(5) "Service provider" means any person providing the 196  
services described in division (A) (4) of this section, including 197  
that person's owner, officer, director, employee, or agent. 198

(B) Except as provided in division (D) of this section, no 199  
service provider shall be liable in damages to any person in a 200  
civil action for illness or for injury, death, or loss to person 201  
or property, allegedly arising from the service provider's act 202  
or omission in providing or performing the service provider's 203  
services that are in response to a disaster or are intended to 204  
assist persons to recover from a disaster or otherwise sustain 205  
themselves during the period of the declared disaster and not 206  
more than one hundred eighty days after the end of the period of 207  
the declared disaster. 208

(C) Except as provided in division (D) of this section, no 209  
service provider shall be liable in damages to any person in a 210  
civil action for injury, death, or loss to person or property 211  
resulting from, or related to, the person's actual or alleged 212  
exposure to an illness in the course of or through that service 213  
provider's provision of services. 214

(D) The immunity granted to a service provider in division 215  
(B) or (C) of this section does not apply if it is established 216  
by clear and convincing evidence that the service provider's act 217  
or omission is intentional, willful, or wanton misconduct. 218

(E) This section does not do either of the following: 219

(1) Create a new cause of action or substantive legal 220  
right against any person; 221

(2) Affect any immunities from civil liability or defenses 222  
established by another section of the Revised Code or available 223  
at common law to a service provider that provides services under 224  
this section. 225

(F) The immunity conferred in this section shall also 226  
apply to any cause of action against a service provider for 227  
contribution or indemnity for damages sustained by any person 228  
during the period of the disaster and not more than one hundred 229  
eighty days after the end of the period of the disaster. 230

**Section 2.** That existing section 2305.2311 of the Revised 231  
Code is hereby repealed. 232

**Section 3.** This act is hereby declared to be an emergency 233  
measure necessary for the immediate preservation of the public 234  
peace, health, and safety. The reason for such necessity is that 235  
it is crucial to provide immunity in response to a disaster 236  
declared by the federal government, state government, or 237  
political subdivision of the state. Therefore, this act shall go 238  
into immediate effect. 239

**Section 4.** This act applies retroactively to the date a 240  
disaster is declared by the federal government, state 241  
government, or political subdivision of the state. 242