

104TH CONGRESS
1ST SESSION

S. 1351

To encourage the furnishing of health care services to low-income individuals by exempting health care professionals from liability for negligence for certain health care services provided without charge except in cases of gross negligence or willful misconduct, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 20 (legislative day, OCTOBER 18), 1995

Ms. MOSELEY-BRAUN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To encourage the furnishing of health care services to low-income individuals by exempting health care professionals from liability for negligence for certain health care services provided without charge except in cases of gross negligence or willful misconduct, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Charitable Medical
5 Care Act of 1995”.

1 **SEC. 2. EXEMPTION OF HEALTH CARE PROFESSIONALS**
2 **FROM NEGLIGENCE LIABILITY IN THE PROVI-**
3 **SION OF CERTAIN HEALTH CARE SERVICES**
4 **WITHOUT CHARGE.**

5 (a) LIMITED LIABILITY.—

6 (1) IN GENERAL.—Subject to subsection (b), a
7 health care professional who is licensed or certified
8 to furnish health care services by the appropriate
9 authorities for practice in a State shall not be liable
10 for any civil damages for any act or omission result-
11 ing from the rendering of a health care service de-
12 scribed in paragraph (2) unless the act or omission
13 was the result of gross negligence or willful mis-
14 conduct.

15 (2) HEALTH CARE SERVICE DESCRIBED.—

16 (A) IN GENERAL.—A health care service
17 described in this paragraph is a health care
18 service which is—

19 (i) preventive or primary or both;

20 (ii) voluntarily rendered by a health
21 care professional—

22 (I) within the scope of the health
23 care professional's license or certifi-
24 cation; and

25 (II) without charge to the recipi-
26 ent of such service (or any health in-

1 surance plan or program under which
2 the recipient is covered); and

3 (iii) offered and rendered in a free
4 medical clinic.

5 (B) FREE MEDICAL CLINIC.—

6 (i) IN GENERAL.—For purposes of
7 subparagraph (A)(iii), a free medical clinic
8 is a private, not-for-profit entity which—

9 (I) is described in section
10 501(c)(3) of the Internal Revenue
11 Code of 1986 and exempt from tax-
12 ation under section 501(a);

13 (II) is licensed if required by the
14 State in which it is located; and

15 (III) provides low cost or free
16 outpatient primary health care serv-
17 ices, a majority of which are rendered
18 to individuals whose income is at least
19 200 percent of the poverty line.

20 (ii) POVERTY LINE.—For purposes of
21 clause (i)(III), the term “poverty line” has
22 the same meaning given such term in sec-
23 tion 673(2) of the Community Services
24 Block Grant Act (42 U.S.C. 9902(2)).

1 (b) REQUIREMENTS PRIOR TO FURNISHING THE
2 SERVICE.—Subsection (a)(1) shall apply only if a health
3 care professional before furnishing a health care service—

4 (1) agrees to furnish the health care service vol-
5 untarily and without charge to the recipient of such
6 service (or any health insurance plan or program
7 under which the recipient is covered); and

8 (2) provides the recipient of the health care
9 service with adequate notice, as determined by the
10 Secretary of Health and Human Services, of the
11 health care professional's limited liability with re-
12 spect to the service.

13 (c) PREEMPTION.—The provisions of this section
14 shall preempt any State law to the extent such law is in-
15 consistent with such provisions. The provisions of this sec-
16 tion shall not preempt any State law that provides greater
17 incentives or protections to a health care professional ren-
18 dering a health care service described in subsection (a)(2).

19 (d) EFFECTIVE DATE.—This section shall apply with
20 respect to health care services furnished on or after the
21 date of the enactment of this Act.

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