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133rd General Assembly
Regular Session
2019-2020

Sub. H. B. No. 606

A BILL

To amend section 2305.2311 and to enact section 1
3701.26 of the Revised Code to make changes 2
regarding qualified civil immunity for health 3
care providers providing services during a 4
disaster or emergency, to grant qualified civil 5
immunity regarding transmission of coronavirus 6
infection, and to declare an emergency. 7

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

Section 1. That section 2305.2311 be amended and section 8
3701.26 of the Revised Code be enacted to read as follows: 9

Sec. 2305.2311. (A) As used in this section: 10

(1) "Advanced practice registered nurse" means an 11
individual who holds a current, valid license issued under 12
Chapter 4723. of the Revised Code to practice as an advanced 13
practice registered nurse. 14

(2) "Athletic trainer" means an athletic trainer licensed 15
under Chapter 4755. of the Revised Code. 16



(3) "Chiropractor" means an individual who is authorized 17
under Chapter 4734. of the Revised Code to practice 18
chiropractic. 19

(4) "Dentist" has the same meaning as in section 2305.231 20
of the Revised Code. 21

~~(3)~~(5) "Disaster" means any occurrence of widespread 22
personal injury or loss of life that results from any natural or 23
technological phenomenon or act of a human, or an epidemic and 24
is declared to be a disaster by the federal government, the 25
state government, or a political subdivision of this state. 26

~~(4)~~(6) "Emergency" has the same meaning as in section 27
5502.21 of the Revised Code. 28

(7) "Emergency medical technician" means an EMT-basic, an 29
EMT-I, or a paramedic. 30

~~(5)~~(8) "EMT-basic" means an individual who holds a 31
current, valid certificate issued under section 4765.30 of the 32
Revised Code to practice as an emergency medical technician- 33
basic. 34

~~(6)~~(9) "EMT-I" means an individual who holds a current, 35
valid certificate issued under section 4765.30 of the Revised 36
Code to practice as an emergency medical technician- 37
intermediate. 38

~~(7)~~(10) "Facility for individuals with developmental 39
disabilities" means a facility that provides services to two or 40
more unrelated individuals with developmental disabilities in a 41
residential setting, such as an institution for mental diseases 42
or a residential facility licensed under section 5123.19 of the 43
Revised Code. 44

(11) "Health care provider" means ~~an~~ advanced practice registered nurse, ~~a~~ registered nurse, licensed practical nurse, ~~a~~ pharmacist, ~~a~~ dentist, ~~an~~ optometrist, ~~a~~ physician, ~~a~~ physician assistant, emergency medical technician, athletic trainer, home and community-based service provider, chiropractor, therapy provider, or ~~a~~ respiratory care professional, or adult day care facility, facility for individuals with developmental disabilities, hospital, laboratory, home health agency, hospice care program, long-term care facility, or any agent or employee of the facility, laboratory, or hospital acting in the course of the agent's or employee's service or employment. 45
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~~(8)~~(12) "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 and includes personal care services. 57
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(13) "Home and community-based services provider" means a provider of services under a home and community-based services medicaid waiver component. 63
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(14) "Home health agency" has the same meaning as in section 3701.881 of the Revised Code. 66
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(15) "Hospice care program" has the same meaning as in section 3712.01 of the Revised Code. 68
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(16) "Hospital" and "medical claim" have the same meanings as in section 2305.113 of the Revised Code. 70
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~~(9)~~(17) "Licensed practical nurse" means an individual who holds a current, valid license issued under Chapter 4723. of 72
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<u>the Revised Code to practice as a licensed practical nurse.</u>	74
<u>(18) "Long-term care facility" has the same meaning as in section 3701.74 of the Revised Code.</u>	75 76
<u>(19) "Optometrist" means a person who is licensed under Chapter 4725. of the Revised Code to practice optometry.</u>	77 78
(10) <u>(20) "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.</u>	79 80 81 82
<u>(21) "Personal care services" has the same meaning as in section 3721.01 of the Revised Code.</u>	83 84
(11) <u>(22) "Pharmacist" means an individual who holds a current, valid license issued under Chapter 4729. of the Revised Code to practice as a pharmacist.</u>	85 86 87
(12) <u>(23) "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.</u>	88 89 90 91
(13) <u>(24) "Physician assistant" means an individual who is authorized under Chapter 4730. of the Revised Code to practice as a physician assistant.</u>	92 93 94
(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	95 96 97 98 99 100 101

~~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)~~ (25) "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)~~ (26) "Respiratory care professional" has the same 109
meaning as in section 4761.01 of the Revised Code. 110

(27) "Therapy provider" means an individual licensed to 111
practice occupational therapy or physical therapy under Chapter 112
4755. of the Revised Code or an individual licensed to practice 113
speech-language pathology under Chapter 4753. of the Revised 114
Code. 115

(28) "Tort action" means a civil action for damages for 116
injury, death, or loss to person or property ~~other than a civil~~ 117
~~action for damages for a breach of contract or another agreement~~ 118
~~between persons or governmental entities~~and includes claims 119
arising under resident or patient bills of rights and 120
contractual claims arising out of statutory or regulatory 121
requirements applicable to health care providers. "Tort action" 122
includes an action on a medical claim. 123

(B) (1) Subject to division (C) (3) of this section, a 124
health care provider ~~or emergency medical technician~~ that 125
provides health care services, emergency medical services, 126
first-aid treatment, or other emergency professional care, 127
~~including the provision of any medication or other medical~~ 128
~~product, as a result of~~ during or in response to a disaster or 129
emergency is not subject to professional disciplinary action and 130

is not liable in damages to any person or government agency in a 131
tort action for injury, death, or loss to person or property 132
that allegedly arises from ~~an~~ any of the following: 133

(a) An act or omission of the health care provider ~~or~~ 134
~~emergency medical technician in the health care provider's or~~ 135
~~emergency medical technician's provision, withholding, or~~ 136
~~withdrawal of those services or that treatment or care;~~ 137

(b) Any decision related to the provision, withholding, or 138
withdrawal of those services; 139

(c) Compliance with an executive order or director's order 140
issued during and in response to the disaster or emergency. 141

(2) Division (B)(1) does not apply if that act ~~or,~~ 142
~~omission does not constitute reckless disregard for the~~ 143
~~consequences so as to affect the life or health of the patient,~~ 144
~~decision, or compliance constitutes willful or wanton~~ 145
~~misconduct.~~ 146

(3) A health care provider is not subject to professional 147
disciplinary action and is not liable in damages to any person 148
or government agency in a tort action for injury, death, or loss 149
to person or property that allegedly arises because the provider 150
was unable to treat, diagnose, or test the person for any 151
illness, disease, or condition, including the inability to 152
perform any elective procedure, due to an epidemic or pandemic 153
disease or other public health emergency. 154

(C) (1) This section does not create a new cause of action 155
or substantive legal right against a health care provider ~~or~~ 156
~~emergency medical technician.~~ 157

(2) This section does not affect any immunities from civil 158
liability or defenses established by another section of the 159

Revised Code or available at common law to which a health care 160
provider ~~or emergency medical technician~~ may be entitled in 161
connection with the provision of health care services, emergency 162
medical services, first-aid treatment, or other emergency 163
professional care, ~~including the provision of medication or~~ 164
~~other medical product.~~ 165

(3) This section does not grant an immunity from tort or 166
other civil liability or a professional disciplinary action to a 167
health care provider ~~or emergency medical technician~~ for actions 168
that are outside the ~~scope of authority~~ skills, education, and 169
training of the health care provider ~~or emergency medical~~ 170
~~technician.~~ 171

(4) This section does not affect any legal responsibility 172
of a health care provider ~~or emergency medical technician~~ to 173
comply with any applicable law of this state or rule of an 174
agency of this state. 175

(5) ~~This~~ Division (B) of this section applies only to the 176
provision, withholding, or withdrawal of health care services, 177
emergency medical services, first-aid treatment, or other 178
emergency professional care, ~~including the provision of any~~ 179
~~medication or other medical product,~~ decisions related to such 180
services or care, or compliance with an executive order or 181
director's order by a health care provider ~~or emergency medical~~ 182
~~technician as a result of~~ during or in response to a disaster or 183
emergency and through the duration of the disaster ~~or emergency.~~ 184

~~(D) This section does not apply to a tort action alleging~~ 185
~~wrongful death against a health care provider or emergency~~ 186
~~medical technician that provides emergency medical services,~~ 187
~~first-aid treatment, or other emergency professional care,~~ 188
~~including the provision of any medication or other medical~~ 189

~~product, that allegedly arises from an act or omission of the~~ 190
~~health care provider or emergency medical technician in the~~ 191
~~health care provider's or emergency medical technician's~~ 192
~~provision of those services or that treatment or care as a~~ 193
~~result of a disaster.~~ 194

Sec. 3701.26. (A) No civil action for damages for injury, 195
death, or loss to person or property shall be brought if the 196
cause of action on which the civil action is based is that the 197
injury, death, or loss to person or property is caused by the 198
transmission of a coronavirus infection, unless it is 199
established by clear and convincing evidence that the infection 200
was transmitted by reckless or intentional conduct or with 201
willful or wanton misconduct on the part of the person against 202
whom the action is brought. 203

(B) As used in division (A) of this section, "reckless 204
conduct" means conduct by which, with heedless indifference to 205
the consequences, the person disregards a substantial and 206
unjustifiable risk that the person's conduct is likely to cause 207
a transmission of a coronavirus infection or is likely to be of 208
a nature that results in a transmission of a coronavirus 209
infection. A person is reckless with respect to circumstances in 210
relation to a transmission of a coronavirus infection when, with 211
heedless indifference to the consequences, the person disregards 212
a substantial and unjustifiable risk that such circumstances are 213
likely to exist. A violation of an order issued by the director 214
of health of this state, alone, is not sufficient to prove 215
"reckless conduct" regarding the transmission of a coronavirus 216
infection. 217

Section 2. That existing section 2305.2311 of the Revised 218
Code is hereby repealed. 219

Section 3. Section 3701.26 of the Revised Code, as enacted 220
by this act, applies from the date of the Governor's Executive 221
Order 2020-01D, issued on March 9, 2020, declaring a state of 222
emergency. 223

Section 4. This act is hereby declared to be an emergency 224
measure necessary for the immediate preservation of the public 225
peace, health, and safety. The reason for such necessity is that 226
it is crucial to provide immunity in response to the COVID-19 227
outbreak. Therefore, this act shall go into immediate effect. 228