To provide for liability protection for health care providers for damages with respect to any harm caused by any act or omission of such health care professional or related health care entity in the course of arranging for or providing health care services during the COVID–19 public health emergency period, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. DAVID P. ROE of Tennessee introduced the following bill; which was referred to the Committee on

A BILL

To provide for liability protection for health care providers for damages with respect to any harm caused by any act or omission of such health care professional or related health care entity in the course of arranging for or providing health care services during the COVID–19 public health emergency period, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Coronavirus Provider Protection Act”.

SEC. 2. LIMITATION ON LIABILITY FOR HEALTH CARE PROFESSIONALS AND RELATED HEALTH CARE ENTITIES RELATED TO COVID-19 EMERGENCY RESPONSE.

(a) LIMITATION ON LIABILITY.—Except as provided in subsection (b), a covered health care provider shall not be liable for damages under any law of the United States or of any State (or political subdivision thereof) for any harm caused by any act or omission of such covered health care provider in the course of arranging for or providing health care services if such health care services were provided in good faith or were withheld for reasons related to the COVID–19 pandemic and the act or omission—

(1) occurs—

(A) during the emergency period or during the 60-day period following the termination of such emergency period; and

(B) in the course of providing health care services that, with respect to a health care professional—

(i) are within the scope of the license, registration, or certification of the health
care professional, as defined by the State of licensure, registration, or certification;

(ii) do not exceed the scope of license, registration, or certification of a substantially similar health care professional in the State in which such act or omission occurs; and

(iii) may be outside the health care professional’s normal area of practice; or

(C) in the course of providing health care services that, with respect to a related health care facility, are within the licensure and accreditation of the related health care entity; and

(2) is committed (or not undertaken)—

(A) based upon any direction, guidance, recommendation, or other statement made by a Federal, State, or local official to address or in response to the COVID–19 pandemic;

(B) based upon any guidance published by any Federal, State or local department or any division or agency of such department in response to the COVID–19 pandemic; or

(C) due to a lack of resources, including manpower, attributable to the COVID–19 pandemic.
(b) EXCEPTIONS.—Subsection (a) does not apply with respect to harm caused by an act or omission of a covered health care provider, as described in such subsection, if—

(1) the act or omission constitutes willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious flagrant indifference to the rights or safety of the individual harmed by the covered health care provider; or

(2) the health care provider provided the health care services under the influence (as determined pursuant to applicable State law) of alcohol or an intoxicating drug (other than a prescription drug taken under the orders of a physician).

(c) PREEMPTION.—

(1) IN GENERAL.—This section preempts the laws of a State or any political subdivision of a State to the extent that such laws are inconsistent with this section, unless such laws provide greater protection from liability.

(2) VOLUNTEER PROTECTION ACT.—Protectations afforded by this section are in addition to those provided by the Volunteer Protection Act of 1997 (Public Law 105–19).

(d) DEFINITIONS.—In this section:
The term “covered health care provider” means—

(A) a health care professional; or

(B) a related health care entity.

(2) The term “emergency period” has the meaning given such term in section 1135(g)(1)(B) of the Social Security Act (42 U.S.C. 1320b–5(g)(1)(B)).

(3) The term “harm” includes physical, nonphysical, economic, and noneconomic injury or losses.

(4) The term “health care professional” means an individual who is licensed, registered, or certified under Federal or State law to provide health care services.

(5) The term “related health care entity” means an entity with which a health care professional has a professional affiliation under which the health care professional performs health care services, including a skilled nursing facility, hospital, academic medical center, ambulatory surgical center, group medical practice, or medical clinic.

(6) The term “professional affiliation” includes staff privileges, medical staff membership, employment or contractual relationship, partnership or
ownership interest, academic appointment, or other affiliation under which a health care professional provides health care services on behalf of, or in association with, the related health care entity.

(7) The term “health care services” means any services rendered or items provided by a health care professional or related health care entity, or by any individual working under the supervision of a health care professional, that relate to—

(A) the treatment, diagnosis, prevention, or mitigation of COVID–19;

(B) the treatment, diagnosis, or care with respect to an individual with a confirmed or suspected case of COVID–19; or

(C) the treatment, diagnosis, or care with respect to an individual who presents to a health care professional or related health care entity during the emergency period.