

OHIO CHAPTER, AMERICAN COLLEGE OF EMERGENCY PHYSICIANS

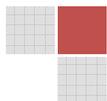
ACCESS TO EMERGENCY and DISASTER HEALTHCARE

Senate Bill 86  
128<sup>th</sup> General Assembly  
Sponsor, Senator Steve Buehrer (R-Delta)



*ADVANCING EMERGENCY CARE* 

Proposes amending Ohio statute to provide new limited liability protection for **all physicians** in disaster and emergency situations and providing EMTALA-mandated care in the Emergency Department.



Ohio Chapter ACEP 3510 Snouffer Rd., Suite 100 Columbus, Ohio 43235

[www.ohacep.org](http://www.ohacep.org)

The focus of this discussion is Senate Bill 86 and the effects of the Emergency Medical Treatment and Active Labor Act (EMTALA). SB 86 is currently being considered by the Senate Judiciary Committee on Civil Justice and would extend limited liability protection for physician health care providers in disaster and emergency situations. EMTALA is the federal mandate that requires all patients presenting to emergency departments be provided a medical screening for emergency medical conditions and be stabilized regardless of insurance status or ability to pay. This mandate contributes to creating a uniquely challenging practice environment for emergency physicians.

## DESCRIPTION

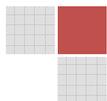
- ❖ This bill grants qualified civil immunity to physicians that provide emergency medical services, first-aid treatment, or other emergency professional care under the federal Emergency Medical Treatment and Active Labor Act (EMTALA) mandate or during a declared disaster.
- ❖ It establishes a **willful and wanton medical negligence standard** for physicians providing emergency medical services under EMTALA obligations or as a result of a declared disaster.
- ❖ Ohio law already provides limited liability protection to physicians providing medical care in free clinics (ORC §2305.234) and to EMT's and paramedics (ORC §4765.49) for pre-hospital emergency care provided to patients who are then delivered to the emergency department, where EMTALA mandates that they receive evaluation and treatment without regard to their ability to pay. This bill will provide the same limited liability protection to emergency medical providers, as they provide care to such patients.

## ACCESS

- ❖ Encourage participation in emergency medical care by removing disincentives from taking ED call
- ❖ Improve access and quality of emergency care for patients in the State of Ohio

## UNNECESSARY COSTS to Patients and to the Healthcare System

- ❖ Emergency medicine remains the 4th most sued specialty in Ohio- 86% of these cases were closed without indemnity, showing a vast over-litigation rate for this specialty.
- ❖ Transfer for definitive care from a community regional medical center to OSU Emergency Department is estimated at \$3-5K for ground transport and \$13-25K by air medical.
  - Simply more cost effective to encourage availability of on-call physicians when possible



## SUPPORT for On-Call Physicians

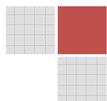
- ❖ Essential on-call services to emergency patients are often in critically short supply, due largely to:
  - increased liability exposure
  - higher liability premiums
  - reduced collections rates from ED patients
  - disruption to a regularly scheduled practice.
- ❖ The crisis in on-call specialists for emergency care is creating a danger for Ohio's citizens who need emergency care.
- ❖ State liability laws should act to **encourage** these specialists to provide vital on-call services to emergency patients, not inhibit them.

## EMERGENCY CARE in Disasters

- ❖ Many states are breaking the legal hurdles that prevented hundreds of doctors and nurses from volunteering to help Hurricane Katrina victims in 2005
  - Model legislation: The Uniform Emergency Volunteer Health Practitioners Act
- ❖ Ohio has yet to support our own physicians in their ability to respond without impediment or threat of penalty at home
- ❖ Enable the physician workforce in Ohio to participate in any disaster response with the freedom to practice medicine, deliver lifesaving emergency care and to do so with increased liability protection

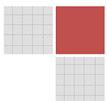
## EVIDENCE BASED

- ❖ Closely parallels language of successful legislation in Texas and Georgia.
  - Landmark similar reforms in Texas in 2003 created a record influx of physicians to the Texas Medical Board and are credited for increased access to all levels of care and specialty care services.
  - In February 2009, 76 Texas counties reported gains in emergency physicians—39 of those counties previously underserved in terms of emergency medicine



## **SB 86 Support**

The Ohio Chapter, American College of Emergency Physicians  
The Ohio State Medical Association  
Ohio Chapter, American College of Cardiology  
Ohio Chapter, American College of Surgeons  
Ohio Chapter, American Academy of Pediatrics  
The American College of Obstetricians and Gynecologists, Ohio Section  
Ohio Osteopathic Association  
Ohio Psychiatric Physicians Association  
Emergency Management Association of Ohio  
Ohio Orthopaedic Society  
Ohio Society of Anesthesiologists  
Ohio Ophthalmological Society  
The Doctor's Company  
Central Ohio Trauma System (COTS)  
Columbus Medical Association



Ohio Chapter ACEP 3510 Snouffer Rd., Suite 100 Columbus, Ohio 43235

[www.ohacep.org](http://www.ohacep.org)