

## Protecting Ohioans Access to Emergency Care

Special Liability Protection for Emergency Care Providers  
Ohio Chapter, American College of Emergency Physicians

### Talking Points

Emergency physicians and on-call specialists who provide emergency care work in a unique environment with specific challenges. They care for patients under the federal law EMTALA, which requires that all patients presenting to emergency departments be evaluated for emergency medical conditions. They care for all patients, regardless of insurance status or ability to pay. They make life and death decisions, often without access to critical medical information. Nationwide, there is a shortage reaching crisis proportions of on-call physicians available to treat emergency patients requiring specialty consultation (such as orthopedics and neurosurgery).

The purpose of this bill is to provide appropriately limited liability for these emergency medical providers under EMTALA requirements, to encourage participation in medical care, and to improve access to care and quality of emergency care for patients in the State of Ohio.

#### Specific Comments:

1. The goal of this bill is to improve access to and the quality of emergency medical care for patients in Ohio.
2. Emergency medicine is a critical component of health care in Ohio and nationwide. ED visits continue to rise every year. In 2006, there were 118 million ED visits nationwide.
3. There is a critical shortage of on-call specialists available to assist in providing EMTALA-related care. According to a recent ACEP survey, 73% of ED directors report problems with inadequate specialist coverage. The most common shortages were in orthopedics, plastic surgery, neurosurgery, ear, nose, and throat, and hand surgery.
4. There are numerous threats to maintaining the quality of emergency medical care, including overcrowding, patient boarding, liability premiums, and lack of on-call specialists.
5. 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 room, 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, many of whom are uninsured or underinsured. Each year, every Ohio emergency physician provides an average of \$140,000 in uncompensated EMTALA-related care, the highest of any medical specialty..

6. Despite the promise shown by earlier legislative reform with the leveling out of medical malpractice premiums, the 2007 Ohio Department of Insurance Medical Liability Closed Claim data report shows emergency medicine as the 4th most sued specialty in Ohio, despite the unique environment in which they practice, making life and death decisions, often without access to critical medical information. 86% of these cases were closed without indemnity showing a vast over-litigation rate for this specialty.
  
7. This bill closely parallels language of successful legislation in Texas and Georgia. Landmark similar reforms in Texas in 2003 created by 2008 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, the Texas College of Emergency Physicians and the Texas Medical Board reported that 76 Texas counties reported gains in emergency physicians—39 of those counties previously underserved in terms of emergency medicine

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Ohio ACEP is a state medical specialty society representing emergency medicine with more than 1,100 members. Ohio ACEP is committed to advancing emergency care through continuing education, research and public education, and assuring access to high quality emergency care for the people of Ohio. Headquartered in Columbus, Ohio, Ohio ACEP is a chapter of the American College of Emergency Physicians representing 27,000 emergency physicians nationwide.

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