

Bill no.:	HR 5
Amendment no.:	1.1C
Date offered:	3/4/03
Disposition:	Withdrawn

AMENDMENT TO H.R. 5
OFFERED BY MR. SHADEGG

Add at the end the following new section:

1 **SEC. ____.** **PROTECTION AGAINST LEGAL LIABILITY FOR**
2 **EMERGENCY AND RELATED SERVICES FUR-**
3 **NISHED TO UNINSURED INDIVIDUALS.**

4 Section 224(g) of the Public Health Service Act (42
5 U.S.C. 233(g)) is amended—

6 (1) In paragraph (4), by striking “An entity”
7 and inserting in lieu thereof “Subject to paragraph
8 (6), an entity”; and

9 (2) by adding at the end the following:

10 “(6)(A) For purposes of this section—

11 (i) an entity described in subparagraph
12 (B) shall be considered to be an entity de-
13 scribed in paragraph (4); and

14 (ii) the provisions of this section shall
15 apply to an entity described in subparagraph
16 (B) in the same manner as such provisions
17 apply to an entity described in paragraph (4),
18 except that—

19 (I) notwithstanding paragraph
20 (1)(B), the deeming of any entity described
21 in subparagraph (B), or of an officer, gov-

1 erning board member, employee, or con-
2 tractor of such an entity, to be an em-
3 ployee of the Public Health Service for
4 purposes of this section shall apply only
5 with respect to items and services that are
6 furnished to an uninsured individual (as
7 defined in subparagraph (C)) pursuant to
8 section 1867 of the Social Security Act
9 and to post-stabilization services (as de-
10 fined in subparagraph (D)) furnished to
11 such an individual;

12 “(II) nothing in paragraph (1)(D)
13 shall be construed as preventing a physi-
14 cian or physician group described in sub-
15 paragraph (B)(ii) from making the appli-
16 cation referred to in such paragraph or as
17 conditioning the deeming of a physician or
18 physician group that makes such an appli-
19 cation upon receipt by the Secretary of an
20 application from the hospital or emergency
21 department that employs or contracts with
22 the physician or group;

23 “(III) notwithstanding paragraph (3),
24 this paragraph shall apply only with re-
25 spect to causes of action arising from acts

1 or omissions that occur on or after Janu-
2 ary 1, 2003;

3 “(IV) paragraph (5) shall not apply to
4 a physician or physician group described in
5 subparagraph (B)(ii);

6 “(V) the Secretary shall make sepa-
7 rate estimates under subsection (k)(1) with
8 respect to entities described in subpara-
9 graph (B) and entities described in para-
10 graph (4) (other than those described in
11 subparagraph (B)), establish separate
12 funds under subsection (k)(2) with respect
13 to such groups of entities, and any appro-
14 priations under this subsection for entities
15 described in subparagraph (B) shall be
16 separate from the amounts authorized by
17 subsection (k)(2) and shall not exceed
18 \$10,000,000 for a fiscal year; and

19 “(VI) subsection (m) shall not apply
20 to entities described in subparagraph (B).

21 (B) An entity described in this paragraph is—

22 “(i) a hospital or an emergency depart-
23 ment to which section 1867 of the Social Secu-
24 rity Act applies; and

1 “(ii) a physician or physician group that is
2 employed by, or under contract with, such hos-
3 pital or department to furnish items and serv-
4 ices to individuals under such section.

5 “(C) For purposes of this paragraph, the term
6 ‘uninsured individual’ means an individual who, at
7 the time treatment is provided by an entity de-
8 scribed in subparagraph (B) for purposes of com-
9 plying with section 1867 of the Social Security
10 Act—

11 “(i) does not have coverage under—

12 “(I) a group health plan (as defined
13 in section 2791(a)(1));

14 “(II) part A or B of title XVIII of the
15 Social Security Act; or

16 “(III) a State plan under title XIX of
17 such Act; and

18 “(ii) does not have health insurance cov-
19 erage (as defined in section 2791(b)(1) of the
20 Public Health Service Act (42 U.S.C. 300gg-
21 91(b)(1)) from any other source.

22 “(D) For purposes of this paragraph, the term
23 ‘post-stabilization services’ means, with respect to an
24 individual who has been treated by an entity de-
25 scribed in subparagraph (B) for purposes of com-

1 plying with section 1867 of the Social Security Act,
2 services that are—

3 “(i) related to the condition that was so
4 treated; and

5 “(ii) provided after the individual is sta-
6 bilized in order to maintain the stabilized condi-
7 tion or to improve or resolve the individual’s
8 condition.”.