

**Amendment to the Amendment in the Nature of a Substitute to Subtitle D. Budget Reconciliation Legislative Recommendations Relating to Elder Justice and Support Guarantee offered by Rep. Wenstrup of Ohio.**

This amendment would prohibit funds from going to programs in states that do not have COVID-19-related medical liability protections for health care providers working in long term care facilities under the Elder Justice Act.

**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE  
OFFERED BY MR. Wenstrup**

Page 2, line 17, strike the close quotation marks and the following period.

Page 2, after line 17, insert the following:

1           “(3) LIMITATION ON ELIGIBILITY FOR  
2 FUNDS.—The amounts made available by State shall  
3 not be provided for the conduct of any program de-  
4 scribed in subtitle B of this title in a State until the  
5 Secretary certifies that a provider of health care  
6 services in a long-term care facility under the pro-  
7 gram in the State shall not be liable in a  
8 coronavirus-related medical liability action brought  
9 in a court of the State unless the plaintiff proves,  
10 by clear and convincing evidence—

11                   “(A) gross negligence or willful misconduct  
12 by the health care provider; and

13                   “(B) that the alleged harm, damage,  
14 breach, or tort resulting in the personal injury  
15 was directly caused by the alleged gross neg-  
16 ligence or willful misconduct (other than an act,

1 omission, or decision resulting from a resource  
2 or staffing shortage).”.

