VIRGINIA ACTS OF ASSEMBLY -- 2020 SPECIAL SESSION I

CHAPTER 7

An Act to amend the Code of Virginia by adding a section numbered 8.01-225.03, relating to certain hospices, home care organizations, private providers, assisted living facilities, and adult day care centers; immunity from civil liability; COVID-19; emergency.

[S 5082]

Approved October 13, 2020

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 8.01-225.03 as follows:

§ 8.01-225.03. Certain immunity for certain hospices, home care organizations, private providers, assisted living facilities, and adult day care centers during a disaster under specific circumstances.

A. As used in this section:

"Disaster" or "emergency" means a public health emergency related to the COVID-19 virus declared by the Governor pursuant to § 44-146.17 and set forth in Executive Order 51 (2020) on March 12, 2020.

B. In the absence of gross negligence or willful misconduct, any (i) hospice licensed pursuant to § 32.1-162.3, (ii) home care organization licensed pursuant to § 32.1-162.9, (iii) private provider licensed by the Department of Behavioral Health and Developmental Services pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2, (iv) assisted living facility licensed pursuant to § 63.2-1701, or (v) adult day care center licensed pursuant to § 63.2-1701 that delivers care to or withholds care from a patient, resident, or person receiving services who is diagnosed as being or is believed to be infected with the COVID-19 virus shall not be liable for any injury or wrongful death of such patient, resident, or person receiving services arising from the delivery or withholding of care when the emergency and subsequent conditions caused by the emergency result in a lack of resources, attributable to the disaster, that render such hospice, home care organization, private provider licensed by the Department of Behavioral Health and Developmental Services, assisted living facility, or adult day care center unable to provide the level or manner of care that otherwise would have been required in the absence of the emergency and that resulted in the injury or wrongful death at issue.

C. The immunity provided by this section shall be in addition to, and not be in lieu of, any immunities provided in other state or federal law, including §§ 8.01-225 and 44-146.23.

D. The immunity provided by this section shall only apply to causes of action arising between March 12, 2020, and such time as the declaration of a state of emergency related to the COVID-19 virus set forth in Executive Order 51 (2020) is no longer in effect.

2. That an emergency exists and this act is in force from its passage.