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P.L. 2020, CHAPTER 18, ***approved April 14, 2020***
Senate, No. 2333 ***(First Reprint)***

AN ACT providing immunity from liability for certain claims alleging injury or death during public health emergency and state of emergency and facilitating issuance of temporary licenses and certifications.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. [1]The Legislature finds and declares:

This statement of legislative intent is made to establish clearly our intent because of the lack of committee hearings. This statement shall be made an official part of the record in establishing this Legislature's intent.

It has been reported that this bill would grant immunity to all medical doctors and healthcare workers in New Jersey for all inpatient or outpatient procedures or any medical treatment rendered during the timeframe of the COVID-19 emergency. This is not an accurate statement.

The enactment of this bill is to ensure that there are no impediments to providing medical treatment related to the COVID-19 emergency and that all medical personnel supporting the COVID-19 response are granted immunity. However, medical care rendered in the ordinary course of medical practice does not provide the granting of immunity. For example, procedures performed by licensed medical professionals in their ordinary course of business, including orthopedic procedures, OB/GYN services, and necessary cardiological procedures.

It is not the Legislature's intent to grant immunity for medical services, treatment and procedures that are unrelated to the COVID-19 emergency.

b.[1] As used in this section:

"Health care facility" means any healthcare facility as defined in section 2 of P.L.2005, c.222 (C.26:13-2), and any modular field treatment facility and any other site designated by the Commissioner of Health for temporary use for the purpose of providing essential services in support of the State's response to the outbreak of coronavirus disease during the public health emergency and state of emergency declared by the Governor in Executive Order 103 of 2020.

"Health care professional" means a physician, physician assistant, advanced practice nurse, registered nurse, licensed practical nurse, or other health care professional whose professional practice is regulated pursuant to Title 45 of the Revised Statutes or who is otherwise authorized to provide health care services in this State, an emergency medical technician or mobile intensive care paramedic certified by the Commissioner of Health pursuant to Title 26 of the Revised Statutes or who is otherwise authorized to provide health care services in this State, and a radiologic technologist regulated pursuant to Title 26 of the Revised Statutes or who is otherwise authorized to provide health care services in this State.

"Scarce critical resource allocation policy" means a policy, protocol or guidelines for the allocation by a health care facility, or a health care system that owns or operates more than one health care facility, of ventilators, intensive care unit beds, or other medical resources or supplies that may be in limited supply and high demand during a public health emergency.

[1][b.] c.[1] Notwithstanding the provisions of any law, rule, or regulation to the contrary:

(1) a health care professional shall not be liable for civil damages for injury or death alleged to have been sustained as a result of an act or omission by the health care professional in the course of providing medical services in support of the State's response to the outbreak of coronavirus disease during the public

health emergency and state of emergency declared by the Governor in Executive Order 103 of 2020; and (2) a health care facility or a health care system that owns or operates more than one health care facility shall not be liable for civil damages for injury or death alleged to have been sustained as a result of an act or omission by one or more of its agents, officers, employees, servants, representatives or volunteers, if, and to the extent, such agent, officer, employee, servant, representative or volunteer is immune from liability pursuant to paragraph (1) of this subsection.

Immunity shall also include any act or omission undertaken in good faith by a health care professional or healthcare facility or a health care system to support efforts to treat COVID-19 patients and to prevent the spread of COVID-19 during the public health emergency and state of emergency declared by the Governor in Executive Order 103 of 2020, including but not limited to engaging in telemedicine or telehealth, and diagnosing or treating patients outside the normal scope of the health care professional's license or practice. The immunity granted pursuant to this subsection shall not apply to acts or omissions constituting a crime, actual fraud, actual malice, gross negligence, recklessness, or willful misconduct, and shall be retroactive to March 9, 2020.

1[c. **]** d.**1** Notwithstanding the provisions of any law, rule, or regulation to the contrary, a health care facility or a health care system that owns or operates more than one health care facility shall not be criminally or civilly liable for damages for injury or death alleged to have been sustained as a result of an act or omission by the facility or system or one or more of the facility's or system's agents, officers, employees, servants, representatives or volunteers during the public health emergency and state of emergency declared by the Governor in Executive Order 103 of 2020 in connection with the allocation of mechanical ventilators or other scarce medical resources, if the health care facility or system adopts and adheres to a scarce critical resource allocation policy that at a minimum incorporates the core principles identified by the Commissioner of Health in an executive directive or administrative order, and the health care facility's or system's agents, officers, employees, servants, representatives and volunteers shall not be civilly or criminally liable for an injury caused by any act or omission pursuant to this subsection during the public health emergency and state of emergency declared by the Governor in Executive Order 103 of 2020 pursuant to, and consistent with, such policy.

2. During **1[**any**]** the**1** state of emergency declared **1**by the Governor in Executive Order 103 of 2020**1** pursuant to P.L.1942, c.251 (C.App.A.:9-33 et seq.), **1[**or**]** and the**1** public health emergency declared **1**by the Governor in Executive Order 103 of 2020**1** pursuant to P.L.2005, c.222 (C.26:13-1 et seq.), the Director of the Division of Consumer Affairs within the Department of Law and Public Safety may issue an administrative order to suspend temporarily any provision of Title 45 of the Revised Statutes or suspend or modify temporarily any rule adopted pursuant to such authority concerning the practice of any profession or occupation for which licenses, certificates, registrations, or certifications are issued by the division or any board or other body in the division, or adopt or prescribe temporarily any rule concerning the practice of any profession or occupation for which licenses, certificates, registrations, or certifications are issued by the division or any board or other body in the division, if the director determines, upon concurrence by the Attorney General, that such order is necessary to promote the public welfare and further such other purposes for which the state of emergency **1[**or**]** and**1** public health emergency was declared **1**by the Governor in Executive Order 103 of 2020**1**. Any administrative order issued by the director pursuant to this section shall cease to apply upon the expiration of the state of emergency or public health emergency **1**declared by the Governor in Executive Order 103 of 2020**1**, or upon the rescission of the declaration of the state of emergency or public health emergency **1**declared by the Governor in Executive Order 103 of 2020**1**, and shall not be subject to the requirements of the Administrative Procedure Act, P.L.1968, c.410 (C.52:14B-1 et seq.).

3. a. Notwithstanding any other provision of law to the contrary, for the duration of the state of emergency or the public health emergency declared in response to the COVID-19 pandemic, whichever period of declared emergency is longer, the Commissioner of Health shall be authorized to:

(1) issue a provisional certification to any emergency medical technician whose professional certification has expired, regardless of whether the emergency medical technician has satisfied the requirements for reinstatement of an expired certification, provided that the emergency medical technician submits an application for provisional certification that includes such information or attestations as may be required by the commissioner, and the commissioner determines that the application should be granted. The commissioner may require additional showings, such as a demonstration of proficiency, prior to granting such application. A provisional certification issued under this paragraph shall be valid for six months from the date of issuance, unless otherwise determined by the commissioner;

(2) issue a provisional certification to any paramedic whose professional certification has expired within the last five years, regardless of whether the paramedic has satisfied the requirements for reinstatement of an expired certification, provided that the paramedic submits an application for provisional certification that includes such information or attestations as may be required by the commissioner, and the commissioner determines that the application should be granted. The commissioner may require additional showings, such as a demonstration of proficiency, prior to granting such application. A provisional certification issued under this paragraph shall be valid for six months from the date of issuance, unless otherwise determined by the commissioner;

(3) temporarily reactivate the certification of any paramedic whose certification is currently on inactive status, regardless of whether the paramedic has satisfied the requirements for reactivation of an inactive certification, provided that the paramedic submits an application for reactivation that includes such information or attestations as may be required by the commissioner, and the commissioner determines that the application should be granted. The commissioner may require additional showings, such as a demonstration of proficiency, prior to granting such application. A temporary reactivation issued under this paragraph shall be valid for six months from the date of issuance, unless otherwise determined by the commissioner; and

(4) grant temporary reciprocity to any paramedic who is not certified to practice in New Jersey but is either provisionally certified as a paramedic by the National Registry of Emergency Medical Technicians or is certified as a paramedic in any other state or the District of Columbia, provided that the paramedic has not had a paramedic certification revoked by the Department of Health, does not currently have a paramedic certification under suspension by the Department of Health, and satisfies all other requirements as may be provided by the commissioner. A grant of temporary reciprocity issued under this paragraph shall be valid for six months from the date of issuance, unless otherwise determined by the commissioner.

b. To facilitate the provisional certification of emergency medical technicians and paramedics, the temporary reactivation of inactive paramedic certifications, and the grant of temporary reciprocity to out-of-State paramedics pursuant to subsection a. of this section, the commissioner is authorized to waive any fees, continuing education requirements, refresher course requirements, periods of provisional certification, required demonstrations of proficiency, endorsement requirements, clinical training requirements, examination requirements, and other requirements that would otherwise apply to recertification of an emergency medical technician or a paramedic whose certification has expired, reactivation of a paramedic certification that has been placed on inactive status, or a grant of reciprocity to an out-of-State paramedic. Waivers of regulations issued pursuant to this subsection shall be valid for six months from the date of issuance, unless otherwise determined by the commissioner.

4. This act shall take effect immediately and section 1 shall be retroactive to March 9, 2020.

Provides civil and criminal immunity to certain health care professionals and health care facilities during public health emergency and state of emergency; facilitates issuance of certain temporary licenses and certifications during public health emergency and state of emergency.