2020 Second Extraordinary Session **ENROLLED**

SENATE BILL NO. 12

BY SENATOR ROBERT MILLS AND REPRESENTATIVE EDMONDS

AN ACT

To amend and reenact R.S. 29:770(B) and 771(B)(2)(c) and to enact R.S. 40:2005.1, relative to a state of public health emergency; to require hospitals, nursing homes, and adult residential care homes to provide patient or resident access to members of the clergy during a state of public health emergency for COVID-19 or other contagious or infectious diseases; to require the Louisiana Department of Health to promulgate rules; to provide for rules for members of the clergy who voluntarily enter inpatient health care facilities to minister; to provide for definitions; to provide for licensed professional counselors; to provide for emotional and spiritual support from clergy; to provide for legislative purpose; to provide for restrictions; to provide for immunity from liability for hospitals, nursing homes, and adult residential care homes; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 29:770(B) and 771(B)(2)(c) are hereby amended and reenacted to read as follows:

§770. Public information regarding a public health emergency; **access to mental health support personnel; access to members of the clergy**

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Coding: Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underscored** are additions.

B. Access to mental health support personnel.

(1) During a declaration of a state of public health emergency, the secretary of the Louisiana Department of Health or his designee shall provide information about and referrals to mental health support personnel to address psychological responses to the public health emergency. **The information provided may include the availability of no-cost or reduced-cost counseling or mental health support services from licensed mental health professionals offered by religious organizations or other nonprofit organizations. The information provided may also include no-cost emotional or spiritual support offered by clergy.**

(2) After a declaration of a state of public health emergency, the secretary of the Louisiana Department of Health or his designee shall provide information about and referrals to mental health support personnel to address psychological responses to the public health emergency. **The information provided may include the availability of no-cost or reduced-cost counseling or mental health support services from licensed mental health professionals offered by religious organizations or other nonprofit organizations. The information provided may also include no-cost emotional or spiritual support offered by clergy.**

§771. Miscellaneous

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B. Liability.

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(2) Private liability.

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(c)**(i)** During a state of public health emergency, ~~any~~ **no** health care ~~providers~~ **provider** shall ~~not~~ be civilly liable for causing the death of, or~~,~~ injury to, any person or damage to any property except in the event of gross negligence or willful misconduct.

(ii) During a state of public health emergency, which is declared to combat COVID-19 or any other contagious disease or infectious disease, no inpatient health care facility shall be liable to a member of the clergy for any

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civil damages for injury or death resulting from or related to actual or alleged exposure during the course of, or through the performance of, allowing access to a member of the clergy in compliance with R.S. 40:2005.1 unless the inpatient health care facility failed to substantially comply with the applicable procedures established by the Louisiana Department of Health that govern the inpatient health care facility operations and the injury or death was caused by the inpatient health care facility's gross negligence or wanton or reckless misconduct.

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Section 2. R.S. 40:2005.1 is hereby enacted to read as follows:

§2005.1. Visitation by members of clergy during a declared public health emergency

A. The legislature declares that the purpose of this Section is to protect the religious liberty of each patient or resident and to protect inpatient health care facilities from costly lawsuits and administrative complaints on the basis of religious discrimination by affording patient or resident access to members of the clergy provided that those members of the clergy enter the inpatient health care facility on a voluntary basis and comply with the safety requirements of the facility in order to visit and minister to the patient or resident.

B.(1) The Louisiana Department of Health shall promulgate rules, pursuant to the Administrative Procedure Act, to require inpatient health care facilities to allow members of the clergy to visit patients or residents during a public health emergency whenever a patient or resident requests such a visit. Special consideration shall be given to patients or residents receiving end-of-life care.

(2)(a) The rules shall include but not be limited to definitions, minimum requirements, and provisions to protect the health, safety, and welfare of the patients or residents and the staff of the inpatient health care facility.

(b) The rules shall allow inpatient health care facilities to adopt

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reasonable time, place, and manner restrictions on patient or resident visitation that are implemented for the purpose of mitigating the possibility of transmission of any infectious agent or disease or to address the medical condition or clinical considerations of an individual patient.

(3) The rules promulgated pursuant to this Section shall be preempted by any federal statute, federal regulation, or guidance from a federal government agency that requires an inpatient health care facility to restrict patient visitation in a manner that is more restrictive than the rules adopted by the Louisiana Department of Health pursuant to this Section.

C. For purposes of this Section, the following definitions shall apply:

(1) "Inpatient health care facilities"means all of the following:

(a) A hospital licensed pursuant to Part II of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950 but shall not include a licensed hospital that is designated as a forensic facility.

(b) A nursing home, as defined in R.S. 40:2009.2.

(c) An adult residential care home, as defined in R.S. 40:2166.3, including but not limited to assisted living facilities.

(2) "Patient or resident" means the patient or resident of the inpatient health care facility or the legal or designated representative of the patient or resident.

(3) "Public health emergency" means a state of public health emergency that is declared pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq.

Section 3. Nothing in this Act shall be interpreted to prohibit or restrict any inpatient health care facility from allowing clergy to visit or minister to patients or residents in a manner deemed appropriate by the inpatient health care facility prior to the effective date of the rules which are to be implemented by the Louisiana Department of Health pursuant to this Act.

Section 4. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature

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by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

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