

# ASSEMBLY, No. 4559

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED AUGUST 24, 2020

**Sponsored by:**

**Assemblywoman JOANN DOWNEY  
District 11 (Monmouth)**

**Co-Sponsored by:**

**Assemblywoman Vainieri Huttle and Assemblyman Benson**

**SYNOPSIS**

Provides that certain civil immunities granted to for-profit healthcare facilities and healthcare systems during state of emergency and public health emergency would expire August 31, 2020.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 8/27/2020)**

1 AN ACT concerning certain immunities and amending P.L.2020,  
2 c.18.

3

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

6

7 1. Section 1 of P.L.2020, c.18 is amended to read as follows:

8 1. a. The Legislature finds and declares:

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

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

18 The enactment of this bill is to ensure that there are no  
19 impediments to providing medical treatment related to the COVID-  
20 19 emergency and that all medical personnel supporting the  
21 COVID-19 response are granted immunity. However, medical care  
22 rendered in the ordinary course of medical practice does not provide  
23 the granting of immunity. For example, procedures performed by  
24 licensed medical professionals in their ordinary course of business,  
25 including orthopedic procedures, OB/GYN services, and necessary  
26 cardiological procedures.

27 It is not the Legislature's intent to grant immunity for medical  
28 services, treatment and procedures that are unrelated to the COVID-  
29 19 emergency.

30 b. As used in this section:

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

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

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 Title 26 of the Revised Statutes or who is otherwise authorized to  
2 provide health care services in this State, and a radiologic  
3 technologist regulated pursuant to Title 26 of the Revised Statutes  
4 or who is otherwise authorized to provide health care services in  
5 this State.

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

12 c. Notwithstanding the provisions of any law, rule, or  
13 regulation to the contrary:

14 (1) a health care professional shall not be liable for civil  
15 damages for injury or death alleged to have been sustained as a  
16 result of an act or omission by the health care professional in the  
17 course of providing medical services in support of the State’s  
18 response to the outbreak of coronavirus disease during the public  
19 health emergency and state of emergency declared by the Governor  
20 in Executive Order 103 of 2020; and (2) except as set forth in  
21 subsection e. of this section, a health care facility or a health care  
22 system that owns or operates more than one health care facility  
23 shall not be liable for civil damages for injury or death alleged to  
24 have been sustained as a result of an act or omission by one or more  
25 of its agents, officers, employees, servants, representatives or  
26 volunteers, if, and to the extent, such agent, officer, employee,  
27 servant, representative or volunteer is immune from liability  
28 pursuant to paragraph (1) of this subsection.

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

41 d. Notwithstanding the provisions of any law, rule, or  
42 regulation to the contrary, a health care facility or a health care  
43 system that owns or operates more than one health care facility  
44 shall not, except as set forth in subsection e. of this section, be  
45 criminally or civilly liable for damages for injury or death alleged  
46 to have been sustained as a result of an act or omission by the  
47 facility or system or one or more of the facility’s or system’s  
48 agents, officers, employees, servants, representatives or volunteers

1 during the public health emergency and state of emergency declared  
2 by the Governor in Executive Order 103 of 2020 in connection with  
3 the allocation of mechanical ventilators or other scarce medical  
4 resources, if the health care facility or system adopts and adheres to  
5 a scarce critical resource allocation policy that at a minimum  
6 incorporates the core principles identified by the Commissioner of  
7 Health in an executive directive or administrative order, and the  
8 health care facility's or system's agents, officers, employees,  
9 servants, representatives and volunteers shall not be civilly or  
10 criminally liable for an injury caused by any act or omission  
11 pursuant to this subsection during the public health emergency and  
12 state of emergency declared by the Governor in Executive Order  
13 103 of 2020 pursuant to, and consistent with, such policy.

14 e. After August 31, 2020, the provisions of this section granting  
15 immunity shall no longer apply to any healthcare facility or  
16 healthcare system that is operated for profit.

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18 2. This act shall take effect immediately.

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#### STATEMENT

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23 Under P.L.2020, c.18, enacted April 14, 2020, a health care  
24 facility or a health care system that owns or operates more than one  
25 health care facility is not liable for civil damages for injury or death  
26 alleged to have been sustained as a result of an act or omission by  
27 one or more of its agents, officers, employees, servants,  
28 representatives or volunteers in the course of providing medical  
29 services in support of the State's response to the outbreak of  
30 coronavirus disease during the public health emergency and state of  
31 emergency declared by the Governor in Executive Order 103 of  
32 2020, issued March 9, 2020.

33 This bill provides that after August 31, 2020, the provisions of  
34 P.L.2020, c.18 granting immunity would no longer apply to any  
35 healthcare facility or healthcare system that is operated for profit.