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SYNOPSIS
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.

CURRENT VERSION OF TEXT
As amended by the Senate on April 13, 2020.

(Sponsorship Updated As Of: 4/13/2020)
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. "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. "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

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.

Matter enclosed in superscript numerals has been adopted as follows:

Senate floor amendments adopted April 13, 2020.
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. 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. 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 the state of emergency declared by the Governor in Executive Order 103 of 2020 pursuant to P.L.1942, c.251 (C.App.A.:9-33 et seq.), or the public health emergency declared by the Governor in Executive Order 103 of 2020 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 or public health emergency was declared by the Governor in Executive Order 103 of 2020. 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 declared by the Governor in Executive Order 103 of 2020, or upon the rescission of the declaration of the state of emergency or public health emergency declared by the Governor in Executive Order 103 of 2020, 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.