

ASSEMBLY HEALTH COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4251

STATE OF NEW JERSEY

DATED: JUNE 23, 2020

The Assembly Health Committee reports favorably Assembly Bill No. 4251.

P.L.2020, c.18, enacted April 14, 2020, provides immunity from civil and criminal liability for certain claims alleging injury or death incurred during the public health emergency and state of emergency declared by the Governor's Executive Order 103 of 2020, issued on March 9, 2020. This bill would add clinical laboratories and persons performing services for such laboratories to the group of persons and entities granted such immunity.

P.L.2020, c.18:

Under the enactment, (1) a health care professional is not 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 is not 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 the bill.

Immunity under P.L.2020, c.18 also includes any act or omission undertaken in good faith by a health care professional or healthcare facility or health care system to support efforts to treat COVID-19 patients and to prevent the spread of COVID-19, 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 does not apply to acts or omissions constituting a crime, actual fraud, actual malice, gross negligence, recklessness, or willful misconduct. The enactment is retroactive to March 9, 2020, the date the Governor issued Executive Order 103 of 2020.

This bill:

Under this bill, the definition of "health care facility" in P.L.2020, c.18 would be expanded to include any clinical laboratory certified under the federal Clinical Laboratory Improvement Amendments

(“CLIA”) in section 353 of the Public Health Service Act (42 U.S.C. s.263a), and the definition of “health care professional” would be expanded to include any agent, officer, employee, servant, representative, or volunteer providing services associated with COVID-19 testing performed by a CLIA-certified diagnostic laboratory.

In addition, the bill expands the term “medical resources or supplies” in the enactment to “medical, diagnostic, laboratory, or testing resources or supplies”; expands the term “medical services” to “medical, diagnostic, laboratory, or testing services”; and expands the term “treat” or “treating” to include diagnosis and testing.

The bill would take effect immediately and, like P.L.2020, c.18, be retroactive to March 9, 2020.