

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

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

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

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9 1. a. ¹The Legislature finds and declares:

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

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

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

28 It is not the Legislature’s intent to grant immunity for medical
29 services, treatment and procedures that are unrelated to the COVID-
30 19 emergency.

31 b.¹ As used in this section:

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

40 “Health care professional” means a physician, physician
41 assistant, advanced practice nurse, registered nurse, licensed

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:

¹Senate floor amendments adopted April 13, 2020.

1 practical nurse, or other health care professional whose professional
2 practice is regulated pursuant to Title 45 of the Revised Statutes or
3 who is otherwise authorized to provide health care services in this
4 State, an emergency medical technician or mobile intensive care
5 paramedic certified by the Commissioner of Health pursuant to
6 Title 26 of the Revised Statutes or who is otherwise authorized to
7 provide health care services in this State, and a radiologic
8 technologist regulated pursuant to Title 26 of the Revised Statutes
9 or who is otherwise authorized to provide health care services in
10 this State.

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

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

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

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

45 ¹**[c.] d.**¹ Notwithstanding the provisions of any law, rule, or
46 regulation to the contrary, a health care facility or a health care
47 system that owns or operates more than one health care facility
48 shall not be criminally or civilly liable for damages for injury or

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

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19 2. During ¹~~any~~ the¹ state of emergency declared ¹by the
20 Governor in Executive Order 103 of 2020¹ pursuant to P.L.1942,
21 c.251 (C.App.A.:9-33 et seq.), ¹~~or~~ and the¹ public health
22 emergency declared ¹by the Governor in Executive Order 103 of
23 2020¹ pursuant to P.L.2005, c.222 (C.26:13-1 et seq.), the Director
24 of the Division of Consumer Affairs within the Department of Law
25 and Public Safety may issue an administrative order to suspend
26 temporarily any provision of Title 45 of the Revised Statutes or
27 suspend or modify temporarily any rule adopted pursuant to such
28 authority concerning the practice of any profession or occupation
29 for which licenses, certificates, registrations, or certifications are
30 issued by the division or any board or other body in the division, or
31 adopt or prescribe temporarily any rule concerning the practice of
32 any profession or occupation for which licenses, certificates,
33 registrations, or certifications are issued by the division or any
34 board or other body in the division, if the director determines, upon
35 concurrence by the Attorney General, that such order is necessary to
36 promote the public welfare and further such other purposes for
37 which the state of emergency ¹~~or~~ and¹ public health emergency
38 was declared ¹by the Governor in Executive Order 103 of 2020¹.
39 Any administrative order issued by the director pursuant to this
40 section shall cease to apply upon the expiration of the state of
41 emergency or public health emergency ¹declared by the Governor in
42 Executive Order 103 of 2020¹, or upon the rescission of the
43 declaration of the state of emergency or public health emergency
44 ¹declared by the Governor in Executive Order 103 of 2020¹, and
45 shall not be subject to the requirements of the Administrative
46 Procedure Act, P.L.1968, c.410 (C.52:14B-1 et seq.).

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

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

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

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

43 (4) grant temporary reciprocity to any paramedic who is not
44 certified to practice in New Jersey but is either provisionally
45 certified as a paramedic by the National Registry of Emergency
46 Medical Technicians or is certified as a paramedic in any other state
47 or the District of Columbia, provided that the paramedic has not had
48 a paramedic certification revoked by the Department of Health,

1 does not currently have a paramedic certification under suspension
2 by the Department of Health, and satisfies all other requirements as
3 may be provided by the commissioner. A grant of temporary
4 reciprocity issued under this paragraph shall be valid for six months
5 from the date of issuance, unless otherwise determined by the
6 commissioner.

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

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

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