

STATE OF NEW YORK

8391

IN SENATE

May 21, 2020

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to protecting addiction service providers from liability during a public health emergency

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 3080 of the public health law, as added by section
2 1 of part GGG of chapter 56 of the laws of 2020, is amended to read as
3 follows:

4 § 3080. Declaration of purpose. A public health emergency that occurs
5 on a statewide basis requires an enormous response from state and feder-
6 al and local governments working in concert with private and public
7 health care providers in the community. The furnishing of treatment of
8 patients during such a public health emergency is a matter of vital
9 state concern affecting the public health, safety and welfare of all
10 citizens. It is the purpose of this article to promote the public
11 health, safety and welfare of all citizens by broadly protecting the
12 health care facilities [~~and~~], health care professionals and addiction
13 service providers in this state from liability that may result from
14 treatment of individuals with COVID-19 under conditions resulting from
15 circumstances associated with the public health emergency.

16 § 2. Section 3081 of the public health law is amended by adding a new
17 subdivision 9 to read as follows:

18 9. The term "addiction service provider" shall mean a health care
19 professional who is licensed to provide behavioral health and substance
20 use services by the office of addiction services and supports.

21 § 3. Section 3082 of the public health law, as added by section 1 of
22 part GGG of chapter 56 of the laws of 2020, is amended to read as
23 follows:

24 § 3082. Limitation of liability. 1. Notwithstanding any law to the
25 contrary, except as provided in subdivision two of this section, any
26 health care facility [~~or~~], health care professional or addiction service
27 provider shall have immunity from any liability, civil or criminal, for

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[~~-~~] is old law to be omitted.

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1 any harm or damages alleged to have been sustained as a result of an act
2 or omission in the course of arranging for or providing health care
3 services, if:

4 (a) the health care facility [~~or~~], health care professional or
5 addiction service provider is arranging for or providing health care
6 services pursuant to a COVID-19 emergency rule or otherwise in accord-
7 ance with applicable law;

8 (b) the act or omission occurs in the course of arranging for or
9 providing health care services and the treatment of the individual is
10 impacted by the health care facility's [~~or~~], health care professional's
11 or the addiction service provider's decisions or activities in response
12 to or as a result of the COVID-19 outbreak and in support of the state's
13 directives; and

14 (c) the health care facility [~~or~~], health care professional or
15 addiction service provider is arranging for or providing health care
16 services in good faith.

17 2. The immunity provided by subdivision one of this section shall not
18 apply if the harm or damages were caused by an act or omission consti-
19 tuting willful or intentional criminal misconduct, gross negligence,
20 reckless misconduct, or intentional infliction of harm by the health
21 care facility [~~or~~], health care professional or addiction service
22 provider providing health care services, provided, however, that acts,
23 omissions or decisions resulting from a resource or staffing shortage
24 shall not be considered to be willful or intentional criminal miscon-
25 duct, gross negligence, reckless misconduct, or intentional infliction
26 of harm.

27 3. Notwithstanding any law to the contrary, a volunteer organization
28 shall have immunity from any liability, civil or criminal, for any harm
29 or damages irrespective of the cause of such harm or damage occurring in
30 or at its facility or facilities arising from the state's response and
31 activities under the COVID-19 emergency declaration and in accordance
32 with any applicable COVID-19 emergency rule, unless it is established
33 that such harm or damages were caused by the willful or intentional
34 criminal misconduct, gross negligence, reckless misconduct, or inten-
35 tional infliction of harm by the volunteer organization.

36 § 4. This act shall take effect immediately.