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:

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

§ 3080. Declaration of purpose. A public health emergency that occurs on a statewide basis requires an enormous response from state and federal and local governments working in concert with private and public health care providers in the community. The furnishing of treatment of patients during such a public health emergency is a matter of vital state concern affecting the public health, safety and welfare of all citizens. It is the purpose of this article to promote the public health, safety and welfare of all citizens by broadly protecting the health care facilities [and], health care professionals [and] addiction service providers in this state from liability that may result from circumstances associated with the public health emergency.

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

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

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

§ 3082. Limitation of liability. 1. Notwithstanding any law to the contrary, except as provided in subdivision two of this section, any health care facility [or], health care professional [or] addiction service 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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any harm or damages alleged to have been sustained as a result of an act
or omission in the course of arranging for or providing health care
services, if:
   (a) the health care facility [religious], health care professional or
addiction service provider is arranging for or providing health care
services pursuant to a COVID-19 emergency rule or otherwise in accord-
ance with applicable law;
   (b) the act or omission occurs in the course of arranging for or
providing health care services and the treatment of the individual is
impacted by the health care facility's [religious] health care professional's
or the addiction service provider's decisions or activities in response
to or as a result of the COVID-19 outbreak and in support of the state's
directives; and
   (c) the health care facility [religious] health care professional or
addiction service provider is arranging for or providing health care
services in good faith.
   2. The immunity provided by subdivision one of this section shall not
apply if the harm or damages were caused by an act or omission consti-
tuting willful or intentional criminal misconduct, gross negligence,
reckless misconduct, or intentional infliction of harm by the health
care facility [religious] health care professional or addiction service
provider providing health care services, provided, however, that acts,
ominations or decisions resulting from a resource or staffing shortage
shall not be considered to be willful or intentional criminal miscon-
duct, gross negligence, reckless misconduct, or intentional infliction
of harm.
   3. Notwithstanding any law to the contrary, a volunteer organization
shall have immunity from any liability, civil or criminal, for any harm
or damages irrespective of the cause of such harm or damage occurring in
or at its facility or facilities arising from the state's response and
activities under the COVID-19 emergency declaration and in accordance
with any applicable COVID-19 emergency rule, unless it is established
that such harm or damages were caused by the willful or intentional
criminal misconduct, gross negligence, reckless misconduct, or inten-
tional infliction of harm by the volunteer organization.
§ 4. This act shall take effect immediately.