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:

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 treatment of individuals with COVID-19 under conditions resulting 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 [~~or~~], 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 accordance 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 [~~or~~], 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 [~~or~~], 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 constituting willful or intentional criminal misconduct, gross negligence, reckless misconduct, or intentional infliction of harm by the health care facility [~~or~~], health care professional **or addiction service provider** providing health care services, provided, however, that acts, omissions or decisions resulting from a resource or staffing shortage shall not be considered to be willful or intentional criminal misconduct, 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 intentional infliction of harm by the volunteer organization.

§ 4. This act shall take effect immediately.