

STATE OF NEW YORK

3677

2021-2022 Regular Sessions

IN ASSEMBLY

January 28, 2021

Introduced by M. of A. L. ROSENTHAL -- read once and referred 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 and subdivision 1 as amended
23 by chapter 134 of the laws of 2020, is amended to read as follows:

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

LBD01036-01-1

1 § 3082. Limitation of liability. 1. Notwithstanding any law to the
2 contrary, except as provided in subdivision two of this section, any
3 health care facility [~~or~~], health care professional, or addiction
4 service provider shall have immunity from any liability, civil or crimi-
5 nal, for any harm or damages alleged to have been sustained as a result
6 of an act or omission in the course of providing health care services,
7 if:

8 (a) the health care facility [~~or~~], health care professional, or
9 addiction service provider is providing health care services in accord-
10 ance with applicable law, or where appropriate pursuant to a COVID-19
11 emergency rule;

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

17 (c) the health care facility [~~or~~], health care professional, or
18 addiction service provider is providing health care services in good
19 faith.

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

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

39 § 4. This act shall take effect immediately.