THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2546 Session of 2020

INTRODUCED BY GROVE AND NELSON, MAY 26, 2020

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MAY 26, 2020

AN ACT

Amending the act of April 9, 1929 (P.L.177, No.175), entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employees in certain departments, boards, and commissions; providing for judicial administration; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employees of certain departments, boards and commissions shall be determined," providing for COVID-19 Good Samaritan Emergency Liability Waiver.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, is amended by adding an article to read:

ARTICLE XXI-D
Section 2101-D. Applicability.

An immunity granted under this article shall apply to an act or omission made in response to the proclamation of disaster emergency issued by the Governor on March 6, 2020, published at 50 Pa.B. 1644 (March 21, 2020), and any renewal of the state of disaster emergency.

Section 2102-D. Liability for damages from equipment or other goods for public health emergency response.

(a) General rule.--A person is not subject to civil liability arising from the use, nature or condition of equipment or other goods manufactured, modified, produced for or utilized, including an atypical or novel utilization, by a health care facility or health care practitioner.

(b) Nonapplicability.--This section shall not apply to an injury or death to a person that results from an act or omission of the person constituting recklessness or intentional misconduct.

(c) Nonliability.--This section shall not be construed as establishing any liability.

(d) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Health care facility." As defined in section 103 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

"Health care practitioner." As defined in section 103 of the Health Care Facilities Act.

"Person." An individual, corporation, partnership,
organization, association or government entity. For a corporation, partnership, organization, association or governmental entity, the term shall include an officer, director, partner, deacon, trustee, council member or other elected or appointed individual responsible for the governance of the entity.

Section 2103-D. Immunity from civil and criminal liability for medical care.

(a) Covered provider.--A covered provider that is involved with or provides medical care shall not be subject to civil and criminal liability as a result of an act or omission by the covered provider.

(b) Exception.--The immunity under subsection (a) shall not extend to an act or omission intentionally designed to harm or a grossly negligent act or omission which results in harm to an individual receiving medical care.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Covered provider." Any of the following:

(1) A health care practitioner as defined in section 103 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act, or any health care practitioner or provider licensed by a state or a political division of the United States, including pursuant to a waiver of a law or a regulation issued by the United States, the Commonwealth or a local governmental authority.

(2) As follows:

(i) A health care facility as defined in the Health Care Facilities Act or a temporary site operated by a
health care facility during the pendency of a pandemic or other disaster or emergency as declared by the Governor, including a facility authorized to operate pursuant to a waiver of a law or a regulation issued by the United States, the Commonwealth or local governmental authority.

(ii) A legal entity whose primary purpose is the provision of medical care or a parent organization or entity to a health care facility.

(3) As follows:

(i) A facility as defined in section 1001 of the act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code, or a parent organization or entity of the facility.

(ii) A business, university, facility or organization that provides a venue for the provision of medical care.

(4) An individual employed or contracted by a health care practitioner, health care facility or facility under paragraph (3), who is involved in providing medical care.

(5) As follows:

(i) A licensed, certified or authorized person providing emergency medical services as defined in 35 Pa.C.S. § 8103 (relating to definitions) or a person employed or contracted to operate an ambulance as defined therein.

(ii) A parent organization or entity of a person under subparagraph (i).

(6) Nursing care as defined in 28 Pa. Code Ch. 201 (relating to applicability, definitions, ownership and general operation of long-term care nursing facilities),
provided that the nursing care is in support of the activities of daily living and other instrumental activities of daily living as defined in 55 Pa. Code Chs. 2600 (relating to personal care homes) and 2800 (relating to assisted living residences), or services covered that nursing care providers are obligated to deliver or arrange under their requirements of licensure.

(7) A pharmacist as defined in section 2(10) of the act of September 27, 1961 (P.L.1700, No.699), known as the Pharmacy Act.

(8) A clinical laboratory, including a laboratory that is certified under section 353 of the Public Health Service Act (42 U.S.C. § 263a) or licensed under the act of September 26, 1951 (P.L.1539, No.389), known as The Clinical Laboratory Act, to provide testing, diagnosis or treatment of a health condition, illness, injury or disease related to a confirmed or suspected case of COVID-19.

"COVID-19." The novel coronavirus as identified in the proclamation of disaster emergency issued by the Governor on March 6, 2020, published at 50 Pa.B. 1644 (March 21, 2020), and any renewal of the state of disaster emergency.

Section 2104-D. Immunity during disaster declaration for child care providers.

(a) Authorization.--An officer, director or employee of a child care center or family child care home licensed by the Department of Human Services that is authorized to continue operations during the period covered by the proclamation of disaster emergency under this article shall not be liable for any civil damages as a result of the continued operation of the center or home during the period covered by the proclamation.
(b) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:


"Family child care home." As defined in section 1001 of the Human Services Code.

Section 2. This act shall take effect immediately.