



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT

Bill

AMENDMENT NO. _____

(to be filled in by
Principal Clerk)

U-ANB-15 [v.3]

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Amends Title [NO]

Date _____, 2020

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Representative P. Jones

moves to amend the bill on page 7, lines 6-7 by inserting between the lines a new section to read:

"SECTION 4.7. (a) Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 1L.

"Emergency or Disaster Treatment Protection Act.

"§ 90-21.130. Short title.

This Article shall be known and may be cited as the Emergency or Disaster Treatment Protection Act.

"§ 90-21.131. Purpose.

(a) It is the purpose of this section to promote the public health, safety and welfare of all citizens by broadly protecting the health care facilities and health care providers in this State from liability that may result from treatment of individuals during the COVID-19 public health emergency under conditions resulting from circumstances associated with the COVID-19 public health emergency. 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 rendering of treatment to patients during such a public health emergency is a matter of vital state concern affecting the public health, safety, and welfare of all citizens.

"§ 90-21.132. Definitions.

The following definitions apply in this Article:

(1) COVID-19. – Coronavirus Disease 2019.

(2) COVID-19 emergency declaration. – Executive Order No. 116 issued March 10, 2020, by Governor Roy A. Cooper, including any amendments issued by Executive Order, subject to extensions under Chapter 166A of the General Statutes.

(3) COVID-19 emergency rule. – Any executive order, declaration, directive, request, or other state or federal authorization, policy statement, rule-making, or regulation that waives, suspends, or modifies applicable State or federal law regarding scope of practice, including modifications authorizing health care providers licensed in another state to practice in this State, or the delivery of care, including those regarding the facility space in which care is delivered



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and which equipment which is used during the COVID-19 emergency declaration.

(4) Damages. – Economic or non-economic losses for harm to an individual.

(5) Harm. – Physical and nonphysical contact that results in injury to or death of an individual.

(6) Health care facility. – A hospital; psychiatric facility; rehabilitation facility; long-term care facility; home health agency; intermediate care facility for individuals with intellectual disabilities; chemical dependency treatment facility; and ambulatory surgical facility.

(7) Health care provider. – Includes all of the following:

a. As defined in G.S. 90-21.50.

b. Individuals licensed under Chapter 90 of the General Statutes and practicing under a waiver in accordance with G.S. 90-12.5.

c. Any emergency medical services personnel as defined in G.S. 131E-155(7).

c. Any individual providing health care services within the scope of authority permitted by a COVID-19 emergency rule.

e. Any individual who is employed as a health care facility administrator, executive, supervisor, board member, trustee, or other person in a managerial position or comparable role at a health care facility.

(8) Health care service. – A corporate, administrative, managerial, clinical, supervisory, health or medical procedure or service rendered by a health care provider or health care facility that does any of the following during the period of the COVID-19 emergency declaration:

a. Provides testing, diagnosis, or treatment of a health condition, illness, injury, or disease related to COVID-19.

b. Dispenses drugs, medical devices, medical appliances, or medical goods for the treatment of a health condition, illness, injury, or disease related to COVID-19.

c. Provides care to any other individual who presents or otherwise seeks care at or from a health care facility or to a health care provider during the period of the COVID-19 emergency declaration.

(9) Volunteer organization. – Any organization, company, or institution that has made its facility or facilities available to support the State's response and activities under the COVID-19 emergency declaration and in accordance with any applicable COVID-19 emergency rule.

"§ 90-21.133. Immunity.

(a) Notwithstanding any law to the contrary, except as provided in subsection (b) of this section, any health care facility, health care provider, or entity that holds legal responsibility for the acts or omissions of a health care professional shall have immunity from any civil or criminal liability for 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 all of the following apply:

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1 (1) The health care facility, health care provider, or entity is arranging for or
2 providing health care services pursuant to a COVID-19 emergency rule or
3 otherwise in accordance with laws applicable at the time of the COVID-19
4 emergency declaration.

5 (2) The act or omission occurs in one of the following ways:

6 a. In the course of the health care provider, health care facility, or entity
7 arranging for or providing health care services and arrangements.

8 b. The treatment of the individual is impacted, directly or indirectly, by
9 the decisions or activities of a health care facility, health care provider,
10 or entity.

11 c. The decisions or activities of a health care facility or entity where a
12 health care provider provides health care services in response to or as
13 a result of the COVID-19 epidemic.

14 (3) The health care facility, health care provider, or entity is arranging for or
15 providing health care services in good faith.

16 (b) The immunity from any civil or criminal liability provided in subsection (a) of this
17 section shall not apply if the harm or damages were caused by an act or omission constituting
18 willful or intentional criminal misconduct, gross negligence, reckless misconduct, or intentional
19 infliction of harm by the health care facility or health care professional providing health care
20 services; provided that the acts, omissions, or decisions resulting from a resource or staffing
21 shortage shall not be considered to be willful or intentional criminal misconduct, gross
22 negligence, reckless misconduct, or intentional infliction of harm.

23 (c) Notwithstanding any law to the contrary, a volunteer organization shall have
24 immunity from any civil or criminal liability for any harm or damages occurring in or at its
25 facility or facilities arising from the State's response and activities under the COVID-19
26 emergency declaration and in accordance with any applicable COVID-19 emergency rule, unless
27 it is established that such harm or damages were caused by the willful or intentional criminal
28 misconduct, gross negligence, reckless misconduct, or intentional infliction of harm by the
29 volunteer organization."

30 **SECTION 4.7.(b)** This act is effective when it becomes law, and applies
31 retroactively to all acts, omissions, or decisions on or after March 10, 2020, that serve as a basis
32 to a claim."

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SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____