

6 Section 1. The public health law is amended by adding a new article
7 30-D to read as follows:

8 ARTICLE 30-D

9 EMERGENCY OR DISASTER TREATMENT PROTECTION ACT

10 Section 3080. Declaration of purpose.

11 3081. Definitions.

12 3082. Limitation of liability.

13 § 3080. Declaration of purpose. A public health emergency that occurs
14 on a statewide basis requires an enormous response from state and feder-
15 al and local governments working in concert with private and public
16 health care providers in the community. The furnishing of treatment of
17 patients during such a public health emergency is a matter of vital
18 state concern affecting the public health, safety and welfare of all
19 citizens. It is the purpose of this article to promote the public
20 health, safety and welfare of all citizens by broadly protecting the
21 health care facilities and health care professionals in this state from
22 liability that may result from treatment of individuals with COVID-19
23 under conditions resulting from circumstances associated with the public
24 health emergency.

25 § 3081. Definitions. As used in this article:

26 1. The term "harm" includes physical and nonphysical contact that
27 results in injury to or death of an individual.

28 2. The term "damages" means economic or non-economic losses for harm
29 to an individual.

30 3. The term "health care facility" means a hospital, nursing home, or
31 other facility licensed or authorized to provide health care services
32 for any individual under article twenty-eight of this chapter, article
33 sixteen and article thirty-one of the mental hygiene law or under a
34 COVID-19 emergency rule.

35 4. The term "health care professional" means an individual, whether
36 acting as an agent, volunteer, contractor, employee, or otherwise, who
37 is:

38 (a) licensed or otherwise authorized under title eight, article one
39 hundred thirty-one, one hundred thirty-one-B, one hundred thirty-one-C,
40 one hundred thirty-seven, one hundred thirty-nine, one hundred forty,
41 one hundred fifty-three, one hundred fifty-four, one hundred sixty-
42 three, one hundred sixty-four or one hundred sixty-five of the education
43 law;

44 (b) a nursing attendant or certified nurse aide, including an individ-
45 ual who is providing care as part of an approved nursing attendant or
46 certified nurse aide training program;

47 (c) licensed or certified under article thirty of this chapter to
48 provide emergency medical services;

49 (d) a home care services worker as defined in section thirty-six
50 hundred thirteen of this chapter;

51 (e) providing health care services within the scope of authority
52 permitted by a COVID-19 emergency rule; or

53 (f) a health care facility administrator, executive, supervisor, board
54 member, trustee or other person responsible for directing, supervising

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1 or managing a health care facility and its personnel or other individual
2 in a comparable role.

3 5. The term "health care services" means services provided by a health
4 care facility or a health care professional, regardless of the location
5 where those services are provided, that relate to:

6 (a) the diagnosis, prevention, or treatment of COVID-19;

7 (b) the assessment or care of an individual with a confirmed or
8 suspected case of COVID-19; or

9 (c) the care of any other individual who presents at a health care
10 facility or to a health care professional during the period of the

11 COVID-19 emergency declaration.

12 6. The term "volunteer organization" means any organization, company
13 or institution that has made its facility or facilities available to
14 support the state's response and activities under the COVID-19 emergency
15 declaration and in accordance with any applicable COVID-19 emergency
16 rule.

17 7. The term "COVID-19 emergency declaration" means the state disaster
18 emergency declared for the entire state by executive order number two
19 hundred two and any further amendments or modifications, and as may be
20 further extended pursuant to section twenty-eight of the executive law.

21 8. The term "COVID-19 emergency rule" means any executive order,
22 declaration, directive or other state or federal authorization, policy
23 statement, rule-making, or regulation that waives, suspends, or modifies
24 otherwise applicable state or federal law regarding scope of practice,
25 such as modifications authorizing physicians licensed in another state
26 to practice in the state of New York, or the delivery of care, including
27 those regarding the facility space in which care is delivered and the
28 equipment used to deliver care, during the COVID-19 emergency declara-
29 tion.

30 § 3082. Limitation of liability. 1. Notwithstanding any law to the
31 contrary, except as provided in subdivision two of this section, any
32 health care facility or health care professional shall have immunity
33 from any liability, civil or criminal, for any harm or damages alleged
34 to have been sustained as a result of an act or omission in the course
35 of arranging for or providing health care services, if:

36 (a) the health care facility or health care professional is arranging
37 for or providing health care services pursuant to a COVID-19 emergency
38 rule or otherwise in accordance with applicable law;

39 (b) the act or omission occurs in the course of arranging for or
40 providing health care services and the treatment of the individual is
41 impacted by the health care facility's or health care professional's
42 decisions or activities in response to or as a result of the COVID-19
43 outbreak and in support of the state's directives; and

44 (c) the health care facility or health care professional is arranging
45 for or providing health care services in good faith.

46 2. The immunity provided by subdivision one of this section shall not
47 apply if the harm or damages were caused by an act or omission consti-
48 tuting willful or intentional criminal misconduct, gross negligence,
49 reckless misconduct, or intentional infliction of harm by the health
50 care facility or health care professional providing health care
51 services, provided, however, that acts, omissions or decisions resulting
52 from a resource or staffing shortage shall not be considered to be will-
53 ful or intentional criminal misconduct, gross negligence, reckless
54 misconduct, or intentional infliction of harm.

55 3. Notwithstanding any law to the contrary, a volunteer organization
56 shall have immunity from any liability, civil or criminal, for any harm

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1 or damages irrespective of the cause of such harm or damage occurring in
2 or at its facility or facilities arising from the state's response and
3 activities under the COVID-19 emergency declaration and in accordance
4 with any applicable COVID-19 emergency rule, unless it is established
5 that such harm or damages were caused by the willful or intentional
6 criminal misconduct, gross negligence, reckless misconduct, or inten-
7 tional infliction of harm by the volunteer organization.

8 § 2. This act shall take effect immediately and shall be deemed to
9 have been in full force and effect on or after March 7, 2020 and shall
10 apply to a claim for harm or damages only if the act or omission that
11 caused such harm or damage occurred on or after the date of the COVID-19
12 emergency declaration and on or prior to the expiration date of such
13 declaration; provided, however, this act shall not apply to any act or
14 omission after the expiration of the COVID-19 emergency declaration.