
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1181 Session of
2020

INTRODUCED BY BROOKS, ARGALL, STEFANO, HUTCHINSON, PHILLIPS-HILL
AND KILLION, JUNE 4, 2020

REFERRED TO JUDICIARY, JUNE 4, 2020

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in particular rights and
3 immunities, providing for limitations on liability in civil
4 actions during state of disaster emergency.

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

7 Section 1. Title 42 of the Pennsylvania Consolidated
8 Statutes is amended by adding a section to read:

9 § 8331.4. Limitations on liability in civil actions during
10 state of disaster emergency.

11 (a) Health care services.--After a declaration of disaster
12 emergency declared by the Governor under 35 Pa.C.S. § 7301(c)
13 (relating to general authority of Governor) and during the
14 period of the state of disaster emergency, the following shall
15 be immune from a medical professional liability claim, medical
16 liability action or other civil claim of negligence for any act
17 or omission in the course of rendering health care during the
18 state of disaster emergency:

19 (1) A health care practitioner or health care provider

1 that provides health care services for or through a health
2 care facility or a Federal, State or municipal governmental
3 agency and provides the health care services in a manner that
4 is outside or exceeds the normal scope of the health care
5 practice or specialty of the health care practitioner or
6 health care provider.

7 (2) A volunteer practitioner that returns to the
8 practice of medicine in response to the state of disaster
9 emergency.

10 (3) A health care practitioner or health care provider,
11 acting in compliance with an executive order or guidelines
12 issued by a Federal, State or municipal government in
13 relation to the state of disaster emergency, that cancels,
14 discontinues or otherwise alters the health care services
15 provided by the health care practitioner or health care
16 provider.

17 (4) A health care practitioner or health care provider,
18 acting in good faith, that engages in an action or omission
19 which results in an injury to another because the health care
20 practitioner or health care provider is unable to provide the
21 required level or manner of care due to a lack of resources
22 attributable to the state of disaster emergency.

23 (b) Health care equipment.--After a declaration of disaster
24 emergency declared by the Governor under 35 Pa.C.S. § 7301(c)
25 and during the period of the state of disaster emergency, any
26 person or entity that manufactures, distributes or uses health
27 care equipment, including any atypical or novel utilization of
28 health care equipment justified by the state of disaster
29 emergency, in response to the state of disaster emergency shall
30 be immune from a products liability claim, including, but not

1 limited to, a negligence claim, strict liability claim, warranty
2 claim or any other civil claim of negligence for an act or
3 omission that is related to the proper use, condition or nature
4 of the health care equipment.

5 (c) Vicarious liability.--No vicarious liability shall
6 attach to the employer of an individual who is immune under this
7 section.

8 (d) Applicability.--

9 (1) This section shall not apply to a claim or cause of
10 action that merely coincides in time with the state of
11 disaster emergency declared by the Governor under 35 Pa.C.S.
12 § 7301(c) when the act or omission giving rise to the claim
13 or cause of action is not associated with the response to the
14 state of disaster emergency.

15 (2) This section shall not apply to any criminal action,
16 intentional tort or incident of gross negligence.

17 (e) Definitions.--As used in this section, the following
18 words and phrases shall have the meanings given to them in this
19 subsection:

20 "Health care equipment." Any medical device, testing
21 equipment, treatment tool, diagnostic equipment or goods
22 manufactured or used for the purpose of health care treatment or
23 personal protection.

24 "Health care facility." As follows:

25 (1) As defined in section 103 of the act of July 19,
26 1979 (P.L.130, No.48), known as the Health Care Facilities
27 Act.

28 (2) Any of the following:

29 (i) A temporary site operated during a state of
30 disaster emergency declared by the Governor under 35

1 Pa.C.S. § 7301(c), including any of the following:

2 (A) A facility authorized to operate in
3 accordance with Federal, State and local laws or
4 ordinances and regulations.

5 (B) A legal entity, including any parent
6 organization, with the primary purpose of providing
7 health care.

8 (ii) A facility licensed as a hospital under 28
9 Pa. Code Pt. IV Subpt. B (relating to general and special
10 hospitals).

11 (iii) A hospital as defined in section 802.1 of the
12 Health Care Facilities Act.

13 (iv) A nursing facility licensed under the Health
14 Care Facilities Act.

15 (v) A personal care home as defined in section 1001
16 of the act of June 13, 1967 (P.L.31, No.21), known as the
17 Human Services Code.

18 (vi) A primary health care center that is a
19 community-based, nonprofit corporation operating in
20 accordance with the standards prescribed by the
21 Department of Health that provides preventative,
22 diagnostic, therapeutic and basic emergency health care
23 by health care practitioners who are employees of or
24 under contract with the primary health care center.

25 (vii) Any other facility that is authorized to
26 provide health care in accordance with Federal, State and
27 local laws or ordinances and regulations or under a
28 waiver granted by a Federal, State or municipal
29 government agency for the primary purpose of providing
30 health care during a state of disaster emergency declared

1 by the Governor under 35 Pa.C.S. § 7301(c), including any
2 parent organization of the facility.

3 (viii) Any clinical laboratory certified under the
4 Federal Clinical Laboratory amendments in section 353 of
5 the Public Health Services Act (42 U.S.C. § 263a) or
6 licensed under the act of September 26, 1951 (P.L.1539,
7 No.389), known as The Clinical Laboratory Act.

8 (ix) Any child care center or family child care home
9 licensed by the Department of Human Services under the
10 act of June 13, 1967 (P.L.31, No.21), known as the Human
11 Services Code.

12 (x) Any home care agency defined as an entity
13 licensed as a home care agency under the act of July 19,
14 1979 (P.L.130, No.48), known as the Health Care
15 Facilities Act.

16 (xi) Any home health care agency defined as an
17 entity licensed as a home health care agency under the
18 Health Care Facilities Act.

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

21 "Health care provider." A person or entity or an officer,
22 employee or agent of the person or entity, including a
23 corporation, university or other educational institution,
24 licensed or approved by the Commonwealth to provide health care
25 or professional medical services as a physician, certified nurse
26 midwife, podiatrist, hospital, nursing home, birth center and
27 any other entity whose primary purpose is to provide medical
28 care. The term includes any of the following:

29 (1) An individual employed or contracted by a health
30 care practitioner or health care facility who is involved in

1 providing health care.

2 (2) A licensed, certified or otherwise authorized person
3 or entity that provides emergency medical services as defined
4 in 35 Pa.C.S. § 8103 (relating to definitions) or a person or
5 entity employed or contracted to operate an ambulance,
6 including any parent organization of the person or entity.

7 "Medical professional liability action." A proceeding in
8 which a medical professional liability claim is asserted,
9 including an action in a court of law or an arbitration
10 proceeding.

11 "Medical professional liability claim." A claim seeking the
12 recovery of damages or loss from a health care provider arising
13 out of any tort or breach of contract causing injury or death
14 resulting from the furnishing of health care services which were
15 or should have been provided.

16 "Volunteer practitioner." Any of the following who provide
17 health care services without remuneration from a health care
18 facility, hospital nursing home or primary health care center:

19 (1) A health care practitioner.

20 (2) An individual who has retired or otherwise ceased
21 work as a health care practitioner and satisfies all of the
22 following:

23 (i) The individual is otherwise qualified as a
24 health care practitioner within five years preceding a
25 state of disaster emergency declared by the Governor
26 under 35 Pa.C.S. § 7301(c).

27 (ii) The individual was not subject to disciplinary
28 action at the time of retirement or work cessation.

29 Section 2. This act shall take effect immediately.