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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2546 Session of  
2020

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INTRODUCED BY GROVE AND NELSON, MAY 26, 2020

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, MAY 26, 2020

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AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled  
2 "An act providing for and reorganizing the conduct of the  
3 executive and administrative work of the Commonwealth by the  
4 Executive Department thereof and the administrative  
5 departments, boards, commissions, and officers thereof,  
6 including the boards of trustees of State Normal Schools, or  
7 Teachers Colleges; abolishing, creating, reorganizing or  
8 authorizing the reorganization of certain administrative  
9 departments, boards, and commissions; defining the powers and  
10 duties of the Governor and other executive and administrative  
11 officers, and of the several administrative departments,  
12 boards, commissions, and officers; fixing the salaries of the  
13 Governor, Lieutenant Governor, and certain other executive  
14 and administrative officers; providing for the appointment of  
15 certain administrative officers, and of all deputies and  
16 other assistants and employes in certain departments, boards,  
17 and commissions; providing for judicial administration; and  
18 prescribing the manner in which the number and compensation  
19 of the deputies and all other assistants and employes of  
20 certain departments, boards and commissions shall be  
21 determined," providing for COVID-19 Good Samaritan Emergency  
22 Liability Waiver.

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

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

28 ARTICLE XXI-D

1 COVID-19 GOOD SAMARITAN

2 EMERGENCY LIABILITY WAIVER

3 Section 2101-D. Applicability.

4 An immunity granted under this article shall apply to an act  
5 or omission made in response to the proclamation of disaster  
6 emergency issued by the Governor on March 6, 2020, published at  
7 50 Pa.B. 1644 (March 21, 2020), and any renewal of the state of  
8 disaster emergency.

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

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

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

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

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

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

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

30 "Person." An individual, corporation, partnership,

1 organization, association or government entity. For a  
2 corporation, partnership, organization, association or  
3 governmental entity, the term shall include an officer,  
4 director, partner, deacon, trustee, council member or other  
5 elected or appointed individual responsible for the governance  
6 of the entity.

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

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

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

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

20 "Covered provider." Any of the following:

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

28 (2) As follows:

29 (i) A health care facility as defined in the Health  
30 Care Facilities Act or a temporary site operated by a

1 health care facility during the pendency of a pandemic or  
2 other disaster or emergency as declared by the Governor,  
3 including a facility authorized to operate pursuant to a  
4 waiver of a law or a regulation issued by the United  
5 States, the Commonwealth or local governmental authority.

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

9 (3) As follows:

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

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

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

20 (5) As follows:

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

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

28 (6) Nursing care as defined in 28 Pa. Code Ch. 201  
29 (relating to applicability, definitions, ownership and  
30 general operation of long-term care nursing facilities),

1 provided that the nursing care is in support of the  
2 activities of daily living and other instrumental activities  
3 of daily living as defined in 55 Pa. Code Chs. 2600 (relating  
4 to personal care homes) and 2800 (relating to assisted living  
5 residences), or services covered that nursing care providers  
6 are obligated to deliver or arrange under their requirements  
7 of licensure.

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

11 (8) A clinical laboratory, including a laboratory that  
12 is certified under section 353 of the Public Health Service  
13 Act (42 U.S.C. § 263a) or licensed under the act of September  
14 26, 1951 (P.L.1539, No.389), known as The Clinical Laboratory  
15 Act, to provide testing, diagnosis or treatment of a health  
16 condition, illness, injury or disease related to a confirmed  
17 or suspected case of COVID-19.

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

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

24 (a) Authorization.--An officer, director or employee of a  
25 child care center or family child care home licensed by the  
26 Department of Human Services that is authorized to continue  
27 operations during the period covered by the proclamation of  
28 disaster emergency under this article shall not be liable for  
29 any civil damages as a result of the continued operation of the  
30 center or home during the period covered by the proclamation.

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

4     "Child care center." As defined in section 1001 of the act  
5 of June 13, 1967 (P.L.31, No.21), known as the Human Services  
6 Code.

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

9     Section 2. This act shall take effect immediately.