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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 571

02/01/2021 Authored by Morrison
The bill was read for the first time and referred to the Committee on Rules and Legislative Administration

1.1 A bill for an act
1.2 relating to health care; specifying immunity from liability based on the level or
1.3 manner of care due to the COVID-19 peacetime emergency; proposing coding for
1.4 new law in Minnesota Statutes, chapter 12.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. [12.62] COVID-19 PEACETIME EMERGENCY; IMMUNITY FROM
1.7 LIABILITY BASED ON LEVEL OR MANNER OF CARE.

1.8 Subdivision 1. Definitions. (a) For purposes of this section, the following terms have
1.9 the meanings given them.

1.10 (b) "Health care facility" means any facility providing health care services, including
1.11 but not limited to hospitals, nursing homes, medical clinics, and medical laboratories.

1.12 (c) "Health care provider" means any health care professional who provides health care
1.13 services, including but not limited to physicians, physician assistants, advanced practice
1.14 registered nurses, registered nurses, licensed practical nurses, certified nursing assistants,
1.15 respiratory therapists, pharmacists, and laboratory technicians.

1.16 (d) "Peacetime public health emergency" means the peacetime emergency declared by
1.17 the governor under section 12.31, subdivision 2, that relates to the infectious disease known
1.18 as COVID-19.

1.19 (e) "Responder" means any of the following, regardless of whether they provide paid
1.20 or volunteer health care services:

1.21 (1) health care facilities;

1.22 (2) health care providers; and

2.1 (3) ambulance services, including emergency medical technicians, members of a
2.2 specialized medical unit, ambulance services personnel, registered first responders, and
2.3 persons not registered as first responders but affiliated with a medical response unit and
2.4 dispatched by a public safety answering point or licensed ambulance service.

2.5 Subd. 2. **Level and manner of care; civil immunity.** (a) This section applies to claims
2.6 arising from acts or omissions occurring during the peacetime public health emergency or
2.7 within 60 days after termination of the public health emergency. A responder, acting in
2.8 good faith, is not liable for civil damages arising out of the level or manner of care that is
2.9 the subject of a claim to the extent that the public health emergency affected the ability to
2.10 provide the care that would otherwise be required in the absence of the public health
2.11 emergency.

2.12 (b) This subdivision only applies to the level or manner of care that is affected by the
2.13 peacetime public health emergency under the following circumstances:

2.14 (1) insufficient availability of personal protective equipment, ventilators, medications,
2.15 blood products, supplies, equipment, tests and testing supplies, or hospital beds;

2.16 (2) insufficient availability of trained staff;

2.17 (3) delivery of care by responders that exceeds the scope of their credentials at the
2.18 hospital or other health care facility at which they deliver services or exceeds the scope of
2.19 the services that they normally provide, provided that the care is included in the scope of
2.20 their licensure;

2.21 (4) implementation or execution of triage protocols or scarce resource allocation policies
2.22 necessitated by crisis standards of care;

2.23 (5) use of supplies or equipment in ways that are different from the way that these
2.24 supplies and equipment are normally used; and

2.25 (6) treatment decisions based on compliance with Executive Order 20-09 or other federal,
2.26 state, or local directives restricting the provision of certain nonessential or elective health
2.27 care services.

2.28 Subd. 3. **Administrative immunity.** A licensing agency must not impose an
2.29 administrative sanction or penalty, including a correction order, upon a responder based on
2.30 an act or omission for which a responder would be immune from civil liability under
2.31 subdivision 2.

2.32 Subd. 4. **Exception.** This section does not apply to:

3.1 (1) acts or omissions constituting intentional or reckless misconduct or gross negligence;

3.2 or

3.3 (2) claims under section 144.651, chapter 363A, or sections 626.557 to 626.5573.

3.4 **EFFECTIVE DATE.** This section is effective the day following final enactment and

3.5 applies retroactively to acts or omissions occurring on or after March 13, 2020.