

**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020**

Introduced by Senator MacDonald

ENROLLED SENATE BILL No. 899

AN ACT to amend 1976 PA 390, entitled “An act to provide for planning, mitigation, response, and recovery from natural and human-made disaster within and outside this state; to create the Michigan emergency management advisory council and prescribe its powers and duties; to prescribe the powers and duties of certain state and local agencies and officials; to prescribe immunities and liabilities; to provide for the acceptance of gifts; and to repeal acts and parts of acts,” by amending section 11 (MCL 30.411), as amended by 2005 PA 321.

The People of the State of Michigan enact:

Sec. 11. (1) Personnel of disaster relief forces while on duty are subject to all of the following provisions:

(a) If they are employees of this state, they have the powers, duties, rights, privileges, and immunities of and receive the compensation incidental to their employment.

(b) If they are employees of a political subdivision of this state, regardless of where serving, they have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to their employment.

(c) If they are not employees of this state or a political subdivision of this state, they are entitled to the same rights and immunities as provided by law for the employees of this state. All personnel of disaster relief forces shall, while on duty, be subject to the operational control of the authority in charge of disaster relief activities in the area in which they are serving and shall be reimbursed for all actual and necessary travel and subsistence expenses.

(2) This state, any political subdivision of this state, or the employees, agents, or representatives of this state or any political subdivision of this state are not liable for personal injury or property damage sustained by any person appointed or acting as a member of disaster relief forces. This act does not affect the right of a person to receive benefits or compensation to which he or she may otherwise be entitled to under the worker’s disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, any pension law, or any act of Congress.

(3) This state or a political subdivision of this state engaged in disaster relief activity is not liable for the death of or injury to a person or persons, or for damage to property, as a result of that activity. The employees, agents, or representatives of this state or a political subdivision of this state and nongovernmental disaster relief force workers or private or volunteer personnel engaged in disaster relief activity are immune from tort liability to the extent provided under section 7 of 1964 PA 170, MCL 691.1407.

(4) A health care provider or a health care facility, whether licensed in this or another state or by the federal government or a branch of the Armed Forces of the United States, who renders health care services during a state of disaster or state of emergency declared by the governor in support of this state’s response to the state of disaster or state of emergency is considered an authorized disaster relief worker or facility and is not liable, for the death or for an injury sustained by a person by reason of those services regardless of how or under what circumstances

or by what cause those injuries are sustained or death occurs. The immunity granted by this subsection does not apply in the event of an act or omission that is willful misconduct or gross negligence or constitutes intentional and willful or criminal misconduct or intentional infliction of harm. If a civil action for malpractice is filed alleging an act or omission that is willful or gross negligence resulting in injury or death, the services rendered that resulted in those injuries or death shall be judged according to the standards required of persons licensed in this state to perform those services.

(5) An individual listed in subsection (6), during a state of disaster declared by the governor, may practice, in addition to the authority granted by other statutes of this state, the administration of anesthetics; minor surgery; intravenous, subcutaneous, or intramuscular procedure; or oral and topical medication; or a combination of these under the supervision of a member of the medical staff of a licensed hospital of this state, and may assist the staff member in other medical and surgical proceedings.

(6) Subsections (4) and (5) apply to all of the following individuals:

(a) Any of the following, if licensed in this or another state or by the federal government or a branch of the Armed Forces of the United States:

(i) A registered nurse.

(ii) A practical nurse.

(iii) A nursing student acting under the supervision of a licensed nurse.

(iv) A dentist.

(v) A veterinarian.

(vi) A pharmacist.

(vii) A pharmacist intern acting under the supervision of a licensed pharmacist.

(viii) A paramedic.

(b) A medical resident undergoing training in a licensed hospital in this or another state.

(7) Notwithstanding any law to the contrary, during the period which begins retroactive to March 10, 2020 and continues until January 1, 2021, the immunity granted under subsection (4) shall extend to any death of or injury sustained by a person arising out of or as a result of any act or omission by a health care provider or health care facility while engaging in 1 or more of the following activities, which shall constitute health care services rendered in support of the state's response to the COVID-19 pandemic, unless the act or omission constitutes willful misconduct, gross negligence, intentional and willful criminal misconduct, or intentional infliction of harm:

(a) The rendering of COVID-19-related health care services by a health care provider or health care facility to an individual with presumed, suspected, or confirmed COVID-19.

(b) The arrangement, scheduling, rescheduling, canceling, or postponement of the rendering of health care services by a health care provider or health care facility, including the decision to utilize telehealth or other remote services in lieu of an in-person encounter, in reliance on or in compliance with any administrative or governmental agency, division, or department policy, rule, or directive, or any executive order or law regarding health care services provided by a health care provider or health care facility.

(c) Acts, omissions, or decisions made by a health care provider or health care facility resulting from a shortage of necessary resources, including, but not limited to, blood products, pharmaceuticals, medical equipment, or staffing.

(8) A person owning or controlling real estate or other premises who voluntarily and without compensation grants to this state or a political subdivision of this state a license or privilege, or otherwise permits this state or a political subdivision of this state to inspect, designate, and use the whole or any part or parts of the real estate or other premises for the purpose of sheltering persons during an actual, impending, mock, or practice disaster, together with his or her successors in interest, if any, is not civilly liable for negligently causing the death of or injury to any person on or about the real estate or premises under the license, privilege, or permission or for loss or damage to the property of the person.

(9) A person owning or controlling real estate or other premises who has gratuitously granted the use of the real estate or other premises for the purposes stated in this section is legally obligated to make known to the licensee any hidden dangers or safety hazards that are known to the owner or occupant of the real estate or premises that might possibly result in the death or injury or loss of property to a person using the real estate or premises.

(10) Nothing in this section removes, supersedes, or limits any immunity conferred by any other state or federal law, rule, policy, executive order, directive, or procedure.

(11) As used in this section:

(a) "Disaster relief activity" includes training for or responding to an actual, impending, mock, or practice disaster or emergency.

(b) "Gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

(c) "Health care facility" means 1 or more of the following entities or organizations, including any administrators, executives, supervisors, board members, trustees, employees, and volunteers of that entity or organization:

(i) A health facility or agency described in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(ii) State-owned surgical centers.

(iii) State-operated outpatient facilities.

(iv) State-operated veterans facilities.

(v) Facilities used as surge capacity for any of the health care facilities described in this subdivision.

(vi) Any other entity or organization rendering health care services.

(d) "Health care provider" means 1 or more of the following:

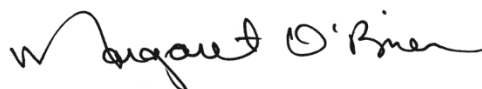
(i) An individual licensed, registered, or otherwise authorized to engage in a health profession under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(ii) Emergency medical services personnel as defined in section 20904 of the public health code, 1978 PA 368, MCL 333.20904.

(iii) Students, trainees, volunteers, competency evaluated nursing assistants, and temporary nurse aides as authorized under the Centers for Medicare and Medicaid Services COVID-19 emergency declaration blanket waivers for health care providers under section 1135 of the social security act, 42 USC 1320b-5, and any other licensed, registered, or unlicensed individual otherwise authorized by law, executive order, or directive of this state to render health care services, with or without a license, during a state of emergency or state of disaster or the period specified in subsection (7).

(e) "Health care services" means services provided to an individual by a health care facility or health care provider regardless of the location where those services are provided, including the provision of health care services via telehealth or other remote method.

(f) "Willful misconduct" means conduct or a failure to act that was intended to cause harm.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor