**130th MAINE LEGISLATURE**

**FIRST REGULAR SESSION-2021**

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**Legislative Document No.**

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S.P. In Senate

**An Act to Support Healthcare Providers during Proclamations of**

**State Public Health Civil Emergencies**

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Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed.

DAREK M. GRANT

Secretary of Senate

Presented by Senator

Cosponsored by

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 24 MRSA §2904-A** is enacted to read:

**§2904-A. Public Health Emergency Healthcare Response Liability**

1. **Short Title.** This Act may be referred to as the “Maine Public Health Emergency Healthc~~a~~re Response Liability Act”.
2. **Limitation on civil liability upon proclamation of a public health related civil emergency.** Except as provided in subsection 3, upon the proclamation of a state of emergency pursuant to Title 22, section 801, subsection 4-A, Title 22, section 801, subsection 10, or Title 37-B, section 703, subsection 2, a health care professional, a health care facility, a dentist, an emergency medical services person, a pharmacist, a laboratory, an assisted housing program, a hospice program or hospice provider or a home health care provider is not liable for an injury or death arising from health care services delivered during a state of emergency provided:
   1. The health care services were impacted by decisions or activities in response to treatment conditions resulting from the state of emergency; and
   2. The health care service was within the scope of the license, registration, or certification, or other documented qualification of the health care professional, health care facility, or other person or entity listed in this subsection.
3. **Exception.** Section 2 does not apply if the injury or death was caused by an act or omission constituting willful, wanton or reckless conduct or by gross negligence of the health care professional or facility.
4. **Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.
5. “Dentist” means a person who practices dentistry according to the provisions of Title 32, section 18371.
6. “Health care professional” means a “health care practitioner as defined in section 2502, subsection 1-A, and any person licensed, certified or otherwise qualified to provide direct care as an employee or contractor of any health care facility.
7. “Health care facility” means any health care facility licensed pursuant to Title 22, chapter 405; any agency or facility for the provision of mental health services licensed pursuant to Title 34-B, section 1203-A; any agency or facility providing children’s mental health services governed by Title 34-B, chapter 15, and any approved public treatment facility, approved treatment facility, or community service provider as defined in Title 5, section 20003.
8. “Emergency medical services person” means a basic emergency medical services person, as defined in Title 32, section 83, subsection 6, and an advanced emergency medical services person, as defined in Title 32, section 83, subsection 1.
9. Pharmacist means an individual licensed by the State of Maine to engage in the practice of pharmacy.
10. Laboratory means any laboratory licensed by the State of Maine pursuant to Title 22, chapter 411.
11. Assisted housing program means any assisted housing program licensed pursuant to Title 22, chapter 1664.
12. Hospice program or hospice provider means any hospice program or hospice provider licensed pursuant to Title 22, chapter 1681.
13. Home health care provider means any home health care provider licensed pursuant to Title 22, chapter 419.

**Sec. 2. Retroactivity.** This Act applies retroactively to March 15, 2020.

**SUMMARY**

This bill provides limited civil liability to defined health care professionals, health care facilities and emergency medical services persons in the event of a proclaimed public health emergency. Because these professionals and facilities must stand in harm’s way at great personal sacrifice in such emergencies and make critical healthcare decisions in demanding circumstances when the options for treatment and care may be limited, the provision of limited civil immunity enables such professionals some level of support for undertaking such sacrifice. The bill is retroactive to the beginning of state of civil emergency declared by the Chief Executive in response to the Covid-19 pandemic.