

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

SENATE BILL 13

5 By: Senator D. Sullivan
6 By: Representative Gonzales
7

For An Act To Be Entitled

9 AN ACT TO CODIFY EXECUTIVE ORDERS 20-18 AND 20-34 TO
10 ENSURE HEALTHCARE PROFESSIONALS ARE EQUIPPED WITH THE
11 TOOLS NECESSARY TO COMBAT CORONAVIRUS 2019 (COVID-19)
12 AND HAVE ACCESS TO HEALTHCARE RESOURCES TO TREAT
13 CORONAVIRUS 2019 (COVID-19); TO DECLARE AN EMERGENCY;
14 AND FOR OTHER PURPOSES.
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Subtitle

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18 TO CODIFY EXECUTIVE ORDERS 20-18 AND
19 20-34 TO ENSURE HEALTHCARE PROFESSIONALS
20 ARE EQUIPPED WITH THE TOOLS NECESSARY TO
21 COMBAT CORONAVIRUS 2019 (COVID-19); AND
22 TO DECLARE AN EMERGENCY.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 SECTION 1. Arkansas Code § 12-75-103, concerning the definitions
28 within the Arkansas Emergency Services Act of 1973, is amended to add
29 additional subdivisions to read as follows:

30 (23) "Emergency management functions" means functions that
31 include:

32 (A) Triage, diagnostic testing, or treatment, or a
33 combination of triage, diagnostic testing, or treatment, provided to
34 individuals who are known to have or suspected to have coronavirus 2019
35 (COVID-19);

36 (B) Cancelling, postponing, or denying elective procedures



1 or other routine care for an illness or condition that does not fall within
 2 the scope of the coronavirus 2019 (COVID-19) pandemic;

3 (C) Redeploying or cross training staff not typically
 4 assigned to duties as described in subdivision (23)(A) or subdivision (23)(B)
 5 of this section, or both, to the extent necessary to respond to the
 6 coronavirus 2019 (COVID-19) pandemic;

7 (D) Planning to enact or enacting crisis standard-of-care
 8 measures, including without limitation modifying the number of beds
 9 available, preserving personal protective equipment, and triaging access to
 10 services or equipment; and

11 (E) Reducing recordkeeping requirements to the extent
 12 necessary for healthcare providers to perform tasks as may be necessary to
 13 respond to the coronavirus 2019 (COVID-19) pandemic;

14 (24) "Healthcare provider" means:

15 (A) An individual who is licensed, certified, or otherwise
 16 authorized by law to administer health care in the ordinary course of the
 17 practice of his or her profession; or

18 (B) A partnership, association, corporation, or other
 19 facility or institution that employs or contracts with individuals to provide
 20 healthcare services in the normal course and scope of business or operation;
 21 and

22 (25) "Healthcare service" means any act or treatment performed
 23 by any healthcare provider to a patient during the patient's medical care,
 24 treatment, or hospitalization.

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 26 SECTION 2. Arkansas Code Title 12, Chapter 75, Subchapter 1, is
 27 amended to add additional sections to read as follows:

28 12-75-134. COVID-19 pandemic – Healthcare providers – Immunity.

29 (a) In response to the coronavirus 2019 (COVID-19) pandemic, all
 30 healthcare providers licensed and permitted to practice in the state are
 31 requested to and may provide:

32 (1) Services in support of this state and the administrators of
 33 this state; and

34 (2) Healthcare services, assistance, and advice.

35 (b) When necessary, healthcare providers affected by coronavirus 2019
 36 (COVID-19) shall remove limits on working hours for physicians, physician

1 assistants, specialist assistants, nurse practitioners, licensed registered
2 nurses, and licensed practical nurses to maintain adequate staffing and
3 otherwise respond to coronavirus 2019 (COVID-19).

4 (c) For the purposes of diagnosing, treating, mitigating, or curing
5 coronavirus 2019 (COVID-19), a healthcare provider may use any drug, device,
6 or product:

7 (1) Approved or cleared under the Federal Food, Drug, and
8 Cosmetic Act, 21 U.S.C. §§ 301-392, as existing on January 1, 2021;

9 (2) Licensed under the Public Health Service Act, 42 U.S.C. §§
10 201-291n, as existing on January 1, 2021; and

11 (3) Authorized for emergency use under an Investigational Device
12 Exemption or Investigational New Drug Application of the Federal Food, Drug,
13 and Cosmetic Act, 21 U.S.C. §§ 301-392, as existing on January 1, 2021.

14 (d)(1) A healthcare provider may:

15 (A) Provide healthcare services that are directed at the
16 treatment or mitigation of coronavirus 2019 (COVID-19) or its symptoms in
17 response to the coronavirus 2019 (COVID-19) pandemic;

18 (B) Perform healthcare services directed at the
19 prevention, treatment, mitigation, or cure of coronavirus 2019 (COVID-19);
20 and

21 (C) Perform other emergency management functions related
22 to coronavirus 2019 (COVID-19) within the scope of his or her licensure.

23 (2) A healthcare provider shall be considered an emergency
24 responder when providing or performing healthcare services or functions as
25 described by subdivision (d)(1) of this section and is subject to the same
26 immunity from liability as provided in § 12-75-128.

27 (e) In addition to immunity under § 12-75-128, a healthcare provider
28 is immune from liability:

29 (1)(A) For death, injury, or property damage alleged to have
30 been sustained as a result of any act or omission by the healthcare provider
31 in the course of performing emergency management functions related to
32 coronavirus 2019 (COVID-19) if the act or omission:

33 (i) Occurs as a result of a good faith effort of the
34 healthcare provider; and

35 (ii) Was the direct result of the healthcare
36 provider's providing a healthcare service to a patient for the treatment and

1 mitigation of coronavirus 2019 (COVID-19) or its symptoms.

2 (B) However, the immunity under subdivision (e)(1)(A) of
 3 this section does not apply to an act or omission that is willful, reckless,
 4 or intentional misconduct; and

5 (2) For using any prescription drug or device to treat a patient
 6 who is known to have or suspected to have coronavirus 2019 (COVID-19) if:

7 (A) The prescription of the drug or device is within the
 8 scope of the healthcare provider's license;

9 (B) The healthcare provider prescribes the drug or device
 10 in accordance with the most current written recommendations of a United
 11 States Government agency; and

12 (C) The healthcare provider informs the patient of known
 13 positive and negative outcomes of the prescription drug or device and
 14 documents the informed consent of the patient to the treatment in the
 15 patient's medical record.

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 17 12-75-135. Department of Health – Emergency medical treatment
 18 protocol.

19 (a)(1) The Department of Health shall coordinate and maintain an
 20 emergency medical treatment protocol for pandemics, including without
 21 limitation the coronavirus 2019 (COVID-19) pandemic, and keep the protocol
 22 current.

23 (2) The protocol may include without limitation:

24 (A) Emergency management functions; and

25 (B) Services provided in response to personnel shortages.

26 (b)(1) In preparing and revising the protocol, the department shall
 27 seek the advice and assistance of state agencies, local government, business,
 28 labor, industry, agriculture, civic, and volunteer organizations, and
 29 community leaders.

30 (2) In advising local and jurisdictional agencies, the
 31 department shall encourage the local and jurisdictional agencies also to seek
 32 advice from the entities listed in subdivision (b)(1) of this section.

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 34 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
 35 General Assembly of the State of Arkansas that the healthcare providers need
 36 flexibility and emergency procedures in place to combat coronavirus 2019

1 (COVID-19) and other medical pandemics; that healthcare providers should be
2 shielded from lawsuits during the coronavirus 2019 (COVID-19) pandemic so as
3 to protect them from potentially frivolous actions while the healthcare
4 providers are battling to save lives; and that this act is immediately
5 necessary because healthcare providers need legal protections, flexibility,
6 and emergency procedures in place for pandemics in order to provide proper
7 healthcare services, assistance, and advice during the coronavirus 2019
8 (COVID-19) pandemic. Therefore, an emergency is declared to exist, and this
9 act being immediately necessary for the preservation of the public peace,
10 health, and safety shall become effective on:

11 (1) The date of its approval by the Governor;

12 (2) If the bill is neither approved nor vetoed by the Governor,
13 the expiration of the period of time during which the Governor may veto the
14 bill; or

15 (3) If the bill is vetoed by the Governor and the veto is
16 overridden, the date the last house overrides the veto.

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