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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

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DIGEST

SB 12 Original

2020 Second Extraordinary Session

Robert Mills

Present law (R.S. 29:760-772) provides for Louisiana Health Emergency Powers Act, which allows the governor to issue an executive order or proclamation declaring a public health emergency, following consultation with the La. Dept. of Health (LDH), if he finds a public health emergency has occurred or the threat thereof is imminent.

Present law (R.S. 29:762(12)) defines "public health emergency" to include an occurrence or imminent threat of an illness or health condition that is believed to be caused by the appearance of a novel, previously controlled, or eradicated infectious agent or biological toxin.

Present law (R.S. 29:770(B)) provides that, during a declaration of a state of public health emergency, the LDH secretary or his designee will provide information about and referrals to mental health support personnel to address psychological responses to the public health emergency. Present law further defines "mental health support personnel" to include psychiatrists, psychologists, social workers, and volunteer crisis counseling groups.

Proposed law retains present law but adds members of the clergy to the list of mental health support personnel for which the LDH provides information and referrals during and after public health emergencies. Proposed law defines "member of the clergy" as any priest, pastor, rabbi, duly ordained clerical deacon or minister, Christian Science practitioner, or other similarly situated functionary of a religious organization.

Proposed law provides that the LDH may include the availability of no-cost or reduced-cost counseling or mental health support services offered by members of the clergy, religious organizations, or other nonprofit organizations when providing information about and referrals to mental health support personnel to address the psychological responses to the public health emergency.

Proposed law defines "inpatient health care facility" to include all of the following:

- (1) A hospital licensed under present law (R.S. 40:2102-2115).
- (2) A nursing home as defined in present law (R.S. 40:2009.2).
- (3) An adult residential care home as defined in present law, including but not limited to assisted living facilities (R.S. 40:2166.3).

Proposed law requires that, during the COVID-19 public health emergency or any other contagious or infectious disease for which a state of public health emergency has been declared, an inpatient

health care facility provide patient or resident access to members of the clergy for prayer, mental health support or religious counseling, the sacraments of Holy Communion, Anointing of the Sick, and Last Rites, and other such customary religious services that would normally be offered to patients or residents if the health care facility was not subject to a declaration of a state of public health emergency. Proposed law further requires that such religious services will be permitted in the same manner that would normally be permitted by the inpatient health care facility during such times when the health care facility is not under a declaration of a state of public health emergency.

Proposed law provides that a member of the clergy who volunteers to visit a patient or resident in an inpatient health care facility must:

- (1) Submit to a health screening, including but not limited to a temperature check.
- (2) Wear the same personal protective equipment as the medical staff of the health care facility.
- (3) Sign a written waiver of liability acknowledging the health care facility's immunity from civil liability, as provided in proposed law, if required to do so by the health care facility.
- (4) Comply with all other safety requirements that the inpatient health care facility imposes on its staff or other health care workers.
- (5) Not disrupt clinical care.

Proposed law requires that the inpatient health care facility identify and prescribe the type of personal protective equipment to be worn by members of the clergy. If the inpatient health care facility provides the personal protective equipment to a member of the clergy, then the inpatient health care facility may recover the actual costs of the equipment from the member of the clergy.

Proposed law provides that the legislative purpose of proposed law is to protect the religious liberty of each patient or resident and to protect inpatient health care facilities from costly lawsuits and administrative complaints on the basis of religious discrimination by affording each patient or resident access to members of the clergy when those members of the clergy volunteer to enter the inpatient health care facility, agree to and comply with the safety requirements provided for in proposed law, accept the risk associated with such entry, and waive liability in order to visit and minister to the patient or resident.

Present law (Title 23) provides certain protections for certain employees, such as unemployment benefits and workers compensation benefits, and also provides certain benefits to independent contractors, such as requirements for safe workplaces.

Proposed law provides that no member of the clergy who is an employee or independent contractor of a religious organization shall, as a condition of employment or a condition of contract, be required by the religious organization to visit or minister to a patient or resident of an inpatient health care facility during a state of public health emergency that is declared to combat COVID-19 or other contagious or infectious disease. Proposed law further provides that the member of the clergy may

choose to enter the facility or refuse to do so. Regardless of his decision, his rights under present law (Title 23) or any other provision of law will be preserved.

Proposed law provides that, during a state of public health emergency, which is declared to combat COVID-19 or any other contagious or infectious disease, no inpatient health care facility will be liable to a member of the clergy who visits the inpatient health care facility for any civil damages for injury or death resulting from an actual or alleged exposure to COVID-19 or any other contagious or infectious disease. Proposed law further provides that this limitation on liability will not apply to a facility that fails to substantially comply with the applicable procedures established by the LDH that governs the health care facility operations and the injury or death was caused by the health care facility's gross negligence or wanton or reckless misconduct.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 29:762(intro para) and (7) through (16), 770 (heading) and (B), and 771(B)(2)(c); adds R.S. 29:762(17) and (18) and 770(C))