

Regular Session, 2009

SENATE BILL NO. 106

BY SENATOR CHEEK

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

LIABILITY. Limits civil liability of health care providers and personnel during a declared emergency. (gov sig)

AN ACT

To enact R.S. 29:735.5, relative to civil liability of health care providers and health care personnel; to provide immunity for health care providers and health care personnel during a declared state of emergency who render or fail to render emergency care, health care services, first aid, ambulatory assistance, transportation or care delivery during evacuations of health care provider facilities, during repopulations of such facilities and during the sheltering of such facilities; to provide for definitions, terms, and conditions; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 29:735.5 is hereby enacted to read as follows:

§735.5. Immunity for evacuation, sheltering, or repopulation

A. Any health care provider or health care personnel who renders or fails to render health care services, first aid, ambulatory assistance, transportation or care delivery anywhere in the state, shall not be liable for any civil damages to a person for any injury or death or psychological trauma suffered or alleged to have been suffered by such person in the course of an evacuation, sheltering, care delivery, transportation or repopulation of a health

1 care provider facility or a failed evacuation, sheltering, care delivery,
2 transportation or repopulation of a health care provider facility, during and
3 following a declared state of emergency at the direction of military or
4 governmental authorities, unless the damages are caused by gross negligence or
5 willful misconduct.

6 **B. As used in this Section:**

7 (1) "Declared state of emergency" means a declaration of the governor
8 in accordance with R.S. 29:724 or 766 or a declaration of a parish president in
9 accordance with R.S. 29:727 or any other declaration of a state of emergency by
10 a governmental authority.

11 (2) "During and following a declared state of emergency" means during
12 the time period as set forth in the declaration and shall also be retroactive to the
13 precipitating event requiring the declaration of disaster or public emergency
14 and for a period of thirty days following the end of the state of emergency.

15 (3) "Health care provider" shall have the same meanings as set forth in
16 R.S. 40:1299.41(10) or R.S. 29:762(4).

17 (4) "Health care personnel" means and includes all employees and
18 volunteers of a health care provider facility licensed under Louisiana law and
19 their spouses, siblings, parents, children and grandchildren; and the officers,
20 directors, shareholders, partners, members or managers of legal entities, who
21 own or operate a health care provider facility, or as a health care licensee, who
22 participate and assist in the evacuation, sheltering, care delivery, transportation
23 or repopulation of a health care provider facility.

24 Section 2. This Act shall become effective upon signature by the governor or, if not
25 signed by the governor, upon expiration of the time for bills to become law without signature
26 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
27 vetoed by the governor and subsequently approved by the legislature, this Act shall become
28 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Camille Sebastien Perry.

DIGEST

Proposed law provides for limitation of liability for any health care provider or health care personnel who renders or fails to render health care services, first aid, ambulatory assistance, transportation or care delivery anywhere in the state in the course of an evacuation, sheltering, care delivery, transportation or repopulation of a health care provider facility or a failed evacuation, sheltering, care delivery, transportation or repopulation of a health care provider facility, during and following a declared state of emergency, unless the damages are caused by gross negligence or willful misconduct.

Proposed law provides the following definitions for use in proposed law:

- (1) "Declared state of emergency" means a declaration of the governor or a declaration of a parish president or any other declaration of a state of emergency by a governmental authority.
- (2) "During and following a declared state of emergency" means during the time period as set forth in the declaration and shall also be retroactive to the precipitating event requiring the declaration of disaster or public emergency and for a period of 30 days following the end of the state of emergency.
- (3) "Health care provider" shall have the same meanings as set forth in R.S. 40:1299.41(10) (medical malpractice) or R.S. 29:762(4) (Louisiana Health Emergency Powers Act).
- (4) "Health care personnel" means and includes all employees and volunteers of a health care provider facility licensed under Louisiana law and their spouses, siblings, parents, children and grandchildren; and the officers, directors, shareholders, partners, members or managers of legal entities, who own or operate a health care provider facility, or as a health care licensee, who participate and assist in the evacuation, sheltering, care delivery, transportation or repopulation of a health care provider facility.

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

(Adds R.S. 29:735.5)