LEGISLATIVE BILL 53

Introduced by Lathrop, 12.
Read first time January 07, 2021
Committee: Judiciary

A BILL FOR AN ACT relating to the Nebraska Hospital-Medical Liability Act; to amend section 44-2855, Reissue Revised Statutes of Nebraska; to provide for immunity for health care providers acting in conformance with the crisis standard of care during a COVID-19 state of emergency; to define terms; to harmonize provisions; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,
Section 1. (1) A health care provider shall be immune from civil liability resulting from care provided pursuant to the crisis standard of care when:

(a) The care is provided during a COVID-19 state of emergency;

(b) The care provided is in accordance with the crisis standard of care; and

(c) The failure of the care to meet the ordinary standard of care set forth in section 44-2810 was a direct result of insufficient medical resources caused by the COVID-19 state of emergency.

(2) For purposes of this section:

(a) COVID-19 means the novel coronavirus identified as SARS-CoV-2, the disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating therefrom, and the health conditions or threats associated with the disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating therefrom;

(b) COVID-19 state of emergency means a state of emergency related to COVID-19 proclaimed by the Governor:

(i) Under section 81-829.40 or other statutory authority or by executive order; and

(ii) In which the Governor has declared the applicability of the crisis standard of care; and

(c) Crisis standard of care means the Crisis Standard of Care Planning Guidance for the COVID-19 Pandemic in the State of Nebraska, dated November 23, 2020, published by the Nebraska Medical Emergency Operations Center.

Sec. 2. Section 44-2855, Reissue Revised Statutes of Nebraska, is amended to read:

44-2855 Sections 44-2801 to 44-2855 and section 1 of this act shall be known and may be cited as the Nebraska Hospital-Medical Liability Act.

Sec. 3. Original section 44-2855, Reissue Revised Statutes of Nebraska, is repealed.