NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

U-ANB-17 [v.10]

Amends Title [NO]
U

Date _____,2020

Representative P. Jones

moves to amend the bill on page XX, line YY, through page AA, line BB by rewriting those lines to read:

"**HEALTH CARE LIABILITY PROTECTION FOR EMERGENCY OR DISASTER TREATMENT**

SECTION 4.7.(a) Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 1L.

"Emergency or Disaster Treatment Protection Act.

"**§ 90-21.130. Short title.**

This Article shall be known and may be cited as the Emergency or Disaster Treatment Protection Act.

"**§ 90-21.131. Purpose.**

(a) It is the purpose of this section to promote the public health, safety and welfare of all citizens by broadly protecting the health care facilities and health care providers in this State from liability that may result from treatment of individuals during the COVID-19 public health emergency under conditions resulting from circumstances associated with the COVID-19 public health emergency. A public health emergency that occurs on a statewide basis requires an enormous response from state and federal and local governments working in concert with private and public health care providers in the community. The rendering of treatment to patients during such a public health emergency is a matter of vital state concern affecting the public health, safety, and welfare of all citizens.

"**§ 90-21.132. Definitions.**

The following definitions apply in this Article:

(1) COVID-19. – Coronavirus Disease 2019.

(2) COVID-19 emergency declaration. – Executive Order No. 116 issued March 10, 2020, by Governor Roy A. Cooper, including any amendments issued by Executive Order, subject to extensions under Chapter 166A of the General Statutes.

(3) COVID-19 emergency rule. – Any executive order, declaration, directive, request, or other state or federal authorization, policy statement, rule-making, or regulation that waives, suspends, or modifies applicable State or federal law regarding scope of practice, including modifications authorizing health

care providers licensed in another state to practice in this State, or the delivery of care, including those regarding the facility space in which care is delivered and which equipment which is used during the COVID-19 emergency declaration.

(4) Damages. – Economic or non-economic losses for harm to an individual.

(5) Harm. – Physical and nonphysical contact that results in injury to or death of an individual.

(6) Health care facility. – Any entity licensed pursuant to Chapters 122C, 131D, or 131E of the General Statutes or Article 64 of Chapter 58 of the General Statutes.

(7) Health care provider. –

a. An individual who is licensed, certified, or otherwise authorized under Chapters 90 or 90B of the General Statutes to provide health care services in the ordinary course of business or practice of a profession or in an approved education or training program.

b. A health care facility where health care services are provided to patients, residents, or others to whom such services are provided as allowed by law.

c. Individuals licensed under Chapter 90 of the General Statutes or practicing under a waiver in accordance with G.S. 90-12.5.

d. Any emergency medical services personnel as defined in G.S. 131E-155(7).

e. Any individual providing health care services within the scope of authority permitted by a COVID-19 emergency rule.

f. Any individual who is employed as a health care facility administrator, executive, supervisor, board member, trustee, or other person in a managerial position or comparable role at a health care facility.

g. An agent or employee of a health care facility that is licensed, certified, or otherwise authorized to provide health care services

h. An officer or director of a health care facility.

i. An agent or employee of a health care provider who is licensed, certified, or otherwise authorized to provide health care services.

(8) Health care service. – Treatment, clinical direction, supervision, management, administrative or corporate service, provided by a health care facility or a health care provider during the period of the COVID-19 emergency declaration, regardless of the location in this State where the service is rendered:

a. To provide testing, diagnosis, or treatment of a health condition, illness, injury, or disease related to a confirmed or suspected case of COVID-19.

b. To dispense drugs, medical devices, medical appliances, or medical goods for the treatment of a health condition, illness, injury, or disease related to a confirmed or suspected case of COVID-19.

c. To provide care to any other individual who presents or otherwise seeks care at or from a health care facility or to a health care provider during the period of the COVID-19 emergency declaration.

(9) Volunteer organization. – Any medical organization, company, or institution that has made its facility or facilities available to support the State's response and activities under the COVID-19 emergency declaration and in accordance with any applicable COVID-19 emergency rule.

"**§ 90-21.133. Immunity.**

(a) Notwithstanding any law to the contrary, except as provided in subsection (b) of this section, any health care facility, health care provider, or entity that has legal responsibility for the acts or omissions of a health care provider shall have immunity from any civil liability for any harm or damages alleged to have been sustained as a result of an act or omission in the course of arranging for or providing health care services only if all of the following apply:

(1) The health care facility, health care provider, or entity is arranging for or providing health care services during the period of the COVID-19 emergency declaration, including but not limited to the arrangement or provision of those services pursuant to a COVID-19 emergency rule.

(2) The arrangement or provision of health care services is impacted, directly or indirectly:

a. By a health care facility, health care provider, or entity's decisions or activities in response to or as a result of the COVID-19 epidemic; or

b. By the decisions or activities, in response to or as a result of the COVID-19 epidemic, of a health care facility or entity where a health care provider provides health care services.

(3) The health care facility, health care provider, or entity is arranging for or providing health care services in good faith.

(b) The immunity from any civil liability provided in subsection (a) of this section shall not apply if the harm or damages were caused by an act or omission constituting gross negligence, reckless misconduct, or intentional infliction of harm by the health care facility or health care provider providing health care services; provided that the acts, omissions, or decisions resulting from a resource or staffing shortage shall not be considered to be gross negligence, reckless misconduct, or intentional infliction of harm.

(c) Notwithstanding any law to the contrary, a volunteer organization shall have immunity from any civil liability for any harm or damages occurring in or at its facility or facilities arising from the State's response and activities under the COVID-19 emergency declaration and in accordance with any applicable COVID-19 emergency rule, unless it is established that such harm or damages were caused by the gross negligence, reckless misconduct, or intentional infliction of harm by the volunteer organization.

"**§ 90-21.134. Severability.**

This session law shall be liberally construed to effectuate its public health emergency purpose as outlined in G.S. 90-121.131. The provisions of this session law are severable. If any part of this session law is declared to be invalid by a court, the invalidity does not affect other parts of this session law that can be given effect without the invalid provision."

SECTION 4.7.(b) This section is effective when it becomes law and applies to acts or omissions occurring during the time of Executive Order No. 116 issued on March 10, 2020 by Governor Roy A. Cooper, and any subsequent time period during which a state of emergency is declared to be in effect during calendar year 2020 by the Governor in response to COVID-19.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____