

National Survey of COVID-19 Medical Malpractice Immunity Legislation (as of April 15, 2020)

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The below survey of federal and state legislation, guidance, and executive action provides information regarding enacted and proposed legislation and executive orders issued to provide immunity protections for liability, in certain respects, to health care professionals, facilities, and volunteers in the course of their treatment of individuals during the course of the COVID-19 pandemic and the declared national and state emergencies. The information provided herein is a summary of the relevant portions of the proposed and enacted legislation and executive orders and is subject to change.

FEDERAL

Coronavirus Aid, Relief and Economic Security Act ("CARES Act"), Pub. L. 116-136 (March 27, 2020)

Status: Enacted (March 27, 2020).

Person(s) Covered: Volunteer healthcare professionals.

Conduct Covered: Errors or omissions causing harm (simple negligence).

Conduct Not Covered: Willful or criminal misconduct; gross negligence; reckless misconduct; conscience flagrant indifference to the rights or safety of the individual; rendering of medical care under the influence of alcohol or intoxicating drugs.

Effective Date(s): From date of enactment, March 27, 2020, and only for the length of the public health emergency declared by the Secretary of Health and Human Services under Section 319 of the Public Health Service Act (42 U.S.C. 247d) on January 31, 2020 with respect to COVID-19.

Summary: Section 3215, Limitation on Liability for Volunteer Health Care Professionals During COVID-19 Emergency Response, preempts state law and provides immunity from federal and state malpractice lawsuits to healthcare professionals who volunteer to provide medical care during the COVID-19 national public health emergency and, through an act or omission of the professional, cause harm (physical, nonphysical, economic and noneconomic losses). To obtain the protection, the act or omission must occur (A) in the course of providing health care services, as defined; (B) in the health care professional's capacity as a volunteer, as defined; (C) in the course of providing health care services that are within the scope of their professional license, registration, or certification and do not exceed it (based on State law in which act or omission occurs) and (D) in a good faith belief that the individual being treated is in need of healthcare services. without expectation of reimbursement (with the exception of travel) or payment.

The protections afforded are in addition to the protections afforded by the Volunteer Protection Act of 1997 (Pub. L. 105-19).

Immunity will not be available if a provider causes harm through willful or criminal misconduct, gross negligence,

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reckless misconduct, conscience flagrant indifference to the rights or safety of the individual, or the rendering of medical care under the influence of alcohol or intoxicating drugs (as determined pursuant to applicable State law).

2. Department of Health and Human Services Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID-19.

Status: Effective (Feb. 4, 2020).

Person(s) Covered: Manufacturers; distributors; program planners; and qualified persons, and their officials, agents, and employees; and the United States, as defined in the Declaration.

Conduct Covered: Claims of loss caused, arising out of, relating to, or resulting from administration or use of countermeasures to COVID-19 determined by the Secretary to constitute a present, or credible risk of a future public health emergency.

Conduct Not Covered: Willful misconduct.

Effective Date(s): February 4, 2020 through (1) the final day the emergency Declaration is in effect, or (2) October 1, 2024, whichever occurs first.

Summary: The Secretary of Health and Human Services issued a Declaration pursuant to section 319F-3 of the Public Health Service Act (42 U.S.C. 247d-6d) to provide liability immunity (except for willful misconduct) for activities related to medical countermeasures for claims of loss caused, arising out of, relating to, or resulting from administration or use of countermeasures to COVID-19 determined by the Secretary to constitute a present, or credible risk of a future public health emergency. Such immunity is given to manufacturers, distributors, program planners, and qualified persons, and their officials, agents, and employees, and the United States. "Qualified persons" includes a licensed healthcare professional or other individual authorized to prescribe, administer, or dispense "Covered Countermeasures" under the law of the state in which the "Covered Countermeasure" was prescribed, administered or dispensed.

The PREP Act states that a "Covered Countermeasure" must be a "qualified pandemic or epidemic product," or a "security countermeasure," as defined, or a drug, biological product or device authorized for emergency use in accordance with Sections 564, 564A, or 564B of the FD&C Act. "Covered Countermeasures" include any antiviral, any other drug, any biologic, any diagnostic, any other device, or any vaccine, used to treat, diagnose, cure, prevent, or mitigate COVID-19, or the transmission of SARS-CoV-2 or a virus mutating therefrom, or any device used in the administration of any such product, and all components and constituent materials of any such product.

The PREP Act further authorizes the Countermeasures Injury Compensation Program (CICP) to provide benefits to certain individuals or estates of individuals who sustain a covered serious physical injury as the direct result of the administration or use of the Covered Countermeasures, and benefits to certain survivors of individuals who die as a direct result of the administration or use of the Covered Countermeasures. The causal connection between the countermeasure and the serious physical injury must be supported by compelling, reliable, valid, medical and scientific evidence in order for the individual to be considered for compensation. The CICP is administered by the Health Resources and Services Administration, within the Department of Health and Human Services.

3. Emergency Management Assistance Compact (EMAC), Pub. L. 104-321.

Status: Enacted (October 19, 1996).

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Person(s) Covered: Officers or employees of a party state rendering aid in a requesting state pursuant to EMAC.

Conduct Covered: Tort liability and immunity in the requesting state for acts or omissions in good faith or on account of maintenance or use of any equipment or supplies in connection with EMAC.

Conduct Not Covered: Willful misconduct; gross negligence; recklessness.

Effective Date(s): N/A

Summary: The Emergency Management Assistance Compact (EMAC) is a multi-disciplinary mutual aid compact that permits, upon gubernatorial activation, that states may receive assistance from other states. Health care providers activated as part of EMAC would be considered agents of the state for purposes of tort liability and immunity. EMAC provides that no party state or its officers or employees rendering aid in another state pursuant to EMAC will be liable on account of any act or omission in good faith on the part of such forces while engaged, or on account of the maintenance or use of any equipment or supplies in connection with EMAC.

Good faith does not include willful misconduct, gross negligence, or recklessness.

4. 3372. Health Care Workforce Protection Act of 2020 (Sen. Fischer)

Status: Read twice and referred to the Committee on Health, Education, Labor, and Pensions (Mar. 2, 2020).

Person(s) Covered: Manufacturers; distributors; prescribers; and users.

Conduct Covered: Claims of loss caused, arising out of, relating to, or resulting from administration or use of certain respiratory protective devices as covered countermeasures.

Conduct Not Covered: Willful misconduct.

Effective Date(s): N/A

Summary: The Bill seeks to amend the Public Health Service Act to provide for treatment of certain respiratory protective devices as covered countermeasures for purposes of targeted liability protections for pandemic and epidemic products and security countermeasures, and for other purposes.

Willful misconduct has the meaning given it in the PREP Act.

5. Facilitating Innovation to Fight Coronavirus Act (Sen. Sasse)

Status: Not yet introduced.

Person(s) Covered: Health care providers.

Conduct Covered: Civil liability in any federal, state, or local proceeding.

Conduct Not Covered: N/A

Effective Date(s): During the duration of the national emergency declared by the President under the National

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Emergencies Act (50 U.S.C. 1601 *et seq.*) with respect to that disease.

Summary: The bill proposes that no health care provider, as defined in 3000(j) Public Health Services Act, 42 U.S.C. 300jj(3)), should be liable in any federal, state, or local civil proceeding for (1) using or modifying a medical device for an unapproved use or indication; (2) practicing without a license or outside of an area of specialty if instructed to do so by an individual with such a license or with such an area of specialty; or (3) conducting the testing of, or the provision of treatment to, a patient outside of the premises of standard health care facilities, where such action was carried out to test, treat, or otherwise counter the effects of COVID-19 during the duration of the national emergency declared by the President with respect to COVID-19.

ALABAMA

No Specific COVID-19 Legislation or Order.

ALASKA

AS 09.65.091. Civil Liability for Responding to Disaster.

Status: Enacted (current through March 26, 2020).

Person(s) Covered: Persons.

Conduct Covered: Liability for the death or injury of any person; damage to property caused by that person's actions.

Conduct Not Covered: Intentional acts; reckless acts; gross negligence.

Effective Date(s): Current through March 26, 2020.

Summary: AS §09.65.091 provides that a person who provides equipment or services on the request of a police agency, fire department, rescue or emergency squad, or other governmental agency during a state of emergency declared by an authorized representative of the state or local government, will not be liable for the death of or injury to any person or damage to any property caused by the person's actions.

There is no immunity when the trier of fact finds that the person acted intentionally, recklessly, or with gross negligence.

2. 2019 Alaska Senate Bill No. 241, Extending COVID 19 Declaration/Relief

Status: Enacted (April 10, 2020).

Person(s) Covered: Health care provider; manufacturer of personal protective equipment.

Conduct Covered: Civil liability resulting from an act or omission.

Conduct Not Covered: Gross negligence; recklessness; intentional misconduct.

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Effective Date(s): March 11, 2020 to November 15, 2020

Summary: The bill amends the uncodified law of Alaska to add a new section entitled LIABILITY: PERSONAL PROTECTIVE EQUIPMENT. The new section reads that in addition to the immunity available under AS 09.65.091 (above), and during the COVID-19 public health disaster emergency declared by the governor on March 11, 2020, a health care provider or manufacturer of personal protective equipment is not liable for civil damages resulting from an act or omission in issuing, providing, or manufacturing personal protective equipment in the event of injury or death to the user of the personal protective equipment if the personal protective equipment was issued, provided, or manufactured in good faith to respond to the COVID-19 public health disaster emergency.

Immunity does not extend for civil damages as a result of gross negligence, recklessness, or intentional misconduct. The health care provider or manufacturer of personal protective equipment must notify the user of the personal protective equipment that the equipment may not meet established federal standards and requirements.

“Health care provider” has the meaning given in AS 18.15.395 (which includes any person providing health care services, hospitals, medical clinics or offices, special care facilities, medical laboratories, and emergency medical works) and a nursing home.

ARIZONA

1. R.S. § 36-790. Privileges and immunities.

Status: Enacted (Current through legislation effective March 27, 2020).

Person(s) Covered: Person; health care provider.

Conduct Covered: Civil or criminal liability if acting in good faith.

Conduct Not Covered: N/A

Effective Date(s): May 23, 2002.

Summary: A.R.S. § 36-790.B. provides that a person or health care provider undertaking any activity required by A.R.S. Title 36, Chapter 6, Article 9, Enhanced Surveillance Advisories and Public Health Emergencies, including reporting, and participating in quarantine and isolation procedures, is immune from civil or criminal liability if the person or health care provider acted in good faith.

Subsection C. further provides that the immunities prescribed in A.R.S. § 26-314 for state, political subdivisions and officers, agents, employees and emergency workers extends to § 36-787 (public health authority), § 36-788 (isolation and quarantine), and § 36-789 (due process for isolation) during a state of emergency or state of war emergency.

2. Executive Order 2020-13. Enhanced Surveillance Advisory **COVID-19**

Status: Issued (March 23, 2020).

Person(s) Covered: Person; health care provider.



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Conduct Covered: Civil or criminal liability if undertaking any activity required by the Enhanced Surveillance Advisories and Public Health Emergencies provisions of the Arizona Code, including reporting, and acting in good faith.

Conduct Not Covered: N/A

Effective Date(s): March 23, 2020 and effective for 60 days therefrom unless extended.

Summary: Executive Order 2020-13 identifies that pursuant to A.R.S. § 36-790(B), a person or health care provider undertaking any activity required by A.R.S. Title 36, Chapter 6, Article 9, which is the Enhanced Surveillance Advisories and Public Health Emergencies (“ESAPHE”) provisions of the Arizona Code, is immune from civil or criminal liability if the person or health care provider acted in good faith. The immunity extends to the undertaking of reporting, as defined by the ESAPHE.

3. Executive Order 2020-27, The “Good Samaritan” Order Protecting Frontline Healthcare Workers Responding to the COVID-19 Outbreak.

Status: Issued (April 9, 2020).

Person(s) Covered: Arizona healthcare professionals; volunteer healthcare professionals; Arizona Emergency Medical Care Technician; Arizona healthcare institutions; any entity operating a modular field treatment facility; any other site whether or not it is a licensed healthcare institution designated by the Director of the Arizona Department of Health Services for temporary use.

Conduct Covered: Civil liability for triage decisions made in the course of providing medical services based on a good faith reliance of mandatory or voluntary state-approved protocols and acts or omissions undertaken in good faith while providing healthcare services, all in support of the State’s public health emergency declaration for COVID-19.

Conduct Not Covered: Gross negligence or reckless or willful misconduct including, but not limited to, rendering medical care services under the influence of alcohol or an intoxicating drug.

Effective Date(s): April 9, 2020 through June 30, 2020 unless extended.

Summary: Executive Order 2020-27 provides immunity from civil liability for triage decisions made in the course of providing medical services based on good faith reliance of mandatory or voluntary state-approved protocols for an Arizona healthcare professional, a licensed Emergency Medical Care Technician, a licensed Arizona health care institution, an entity operating a modular field treatment facility, or any other site whether or not it is licensed if it is designated by the Director of the Arizona Department of Health Services for temporary use in support of the State’s COVID-19 response. A licensed Emergency Medical Care Technician is presumed to have acted in good faith in the course of providing emergency care services.

The Executive Order further provides immunity from civil liability for acts or omissions undertaken in good faith by one or more of the agents, officers, employees, representatives, or volunteers of a licensed Arizona healthcare institution, any entity operating a modular field treatment facility, or any other site whether or not it is licensed if it is designated by the Director of the Arizona Department of Health Services for temporary use in support of the State’s COVID-19 response.

Immunity is not provided for gross negligence or reckless or willful misconduct, including but not limited to the healthcare professional, volunteer or other individual rendering medical care services under the influence of alcohol or an intoxicating drug.

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The immunities granted for actions or omissions undertaken during the term of the Executive Order survive expiration of the Executive Order.

ARKANSAS

[Executive Order 20-18, Executive Order to Amend Executive Order 20-03 regarding the Public Health Emergency Concerning COVID-19 for the Purpose of Equipping Health Care Professionals with the Tools Necessary to Combat the COVID-19 Emergency.](#)

Status: Issued (April 13, 2020).

Person(s) Covered: Physicians; physician assistants; specialist assistants; nurse practitioners; licensed registered nurses; and licensed practical nurses, whether employed by the State or Federal Government, a private entity, or non-profit entity.

Conduct Covered: Liability for any injury or death alleged to have been sustained directly as a result of an act or omissions by a medical professional in the course of providing medical services in support of the COVID-19 outbreak or implementation of measures to control the cause.

Conduct Not Covered: Acting outside the scope of his or her practice unless redeployed as a result of Section 3(d) of the Order; gross negligence; willful misconduct; bad faith.

Effective Date(s): April 13, 2020.

Summary: Executive Order 20-18 suspends the definition of “emergency responder” in Ark. Code Ann. § 12-75-103(7)(C) of the Arkansas Emergency Services Act of 1973 to the extent necessary to provide immunity from liability to “emergency responders,” defined in (4) of the Executive Order to include physicians, physician assistants, specialist assistants, nurse practitioners, licensed registered nurses, and licensed practical nurses. Immunity from civil liability is provided for any injury or death alleged to have been sustained directly as a result of an act or omission by such medical professional in the course of providing medical services in support of the State’s response to COVID-19 outbreak or the implementation of necessary measures to control the causes of the COVID-19 epidemic.

Immunity does not extend to an emergency responder who, as a result of his or her act or omissions, caused an injury or death due to acting outside the scope of his or her practice unless redeployed as a result of Section 3(d) of the Executive Order, or acting in gross negligence, willful misconduct, or bad faith.

CALIFORNIA

No Specific COVID-19 Legislation or Order.

COLORADO

No Specific COVID-19 Legislation or Order.

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CONNECTICUT

Executive Order No. 7V, Protection of Public Health and Safety During COVID-19 Pandemic and Response – Safe Workplaces, Emergency Expansion of the Healthcare Workforce.

Status: Issued (April 7, 2020).

Person(s) Covered: Health care professional; health care facility.

Conduct Covered: Civil liability for death or injury allegedly sustained because of an act or omission undertaken in good faith.

Conduct Not Covered: Acts or omissions that constitute a crime, fraud, malice, gross negligence, willful misconduct, or would otherwise constitute a false claim or prohibited act pursuant to Section 4-275 *et seq.* or 31 U.S.C. §3729 *et seq.*

Effective Date(s): At any time during the public health and civil preparedness emergency declared on March 10, 2020, including any period of extension or renewal, and including acts or omissions occurring prior to the issuance of the Executive Order attributable to COVID-19 response efforts.

Summary: Executive Order No. 7V supersedes Executive Order No. 7U, Section 1 – Protection from Civil Liability for Actions or Omissions in Support of the State's COVID-19 Response and replaces it with a provision providing that any health care professional or health care facility, as defined, shall be immune from suit for civil liability for any injury or death alleged to have been sustained because of the individual's or health care facility's acts or omissions undertaken in good faith while providing health care services in support of the State's COVID-19 response. Such acts or omissions include, but are not limited to, a lack of resources attributable to the COVID-19 pandemic that renders the health care professional or health care facility unable to provide the level or manner of care that otherwise would have been required.

Immunity will not extend to acts or omissions that constitute a crime, fraud, malice, gross negligence, willful misconduct, or would otherwise constitute a false claim or prohibited act pursuant to Section 4-275 *et seq.* or 31 U.S.C. §3729 *et seq.*

"Health care facility" as defined by the Executive Order, includes facilities designated by the Commissioner of the Department of Public Health for temporary use for the purposes of providing essential services in support of the State's COVID-19 response. "Health care professional" includes an individual licensed, registered, permitted, or certified in any state in the United States and any retired professional, professional with an inactive license, or volunteer approved by the Commissioner of the Department of Public Health or her designee.

DELAWARE

Joint Order of the Department of Health and Social Services and The Delaware Emergency Management Agency.

Status: Issued (March 24, 2020).

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Person(s) Covered: Out-of-state health care provider; inactive health care provider; qualified person appointed pursuant to the Order.

Conduct Covered: Civil liability (and indemnification from the State).

Conduct Not Covered: Gross negligence; wanton negligence.

Effective Date(s): March 24, 2020.

Summary: The Joint Order provides that any out-of-state health care provider, inactive health care provider, or qualified person appointed pursuant to the Joint Order is considered a public employee under 10 Del. C. §§ 4001-4002 which provides for immunity from civil suit or proceeding or administrative tribunal, and indemnification from the State, for civil liability alleged against public officers and employees provided that the act or omissions arose out of and in connection with the performance of an official duty requiring a determination of policy, the interpretation or enforcement of statutes, rules or regulations, the granting or withholding of publicly created or regulated entitlements or privileges or any other official duty involving the exercise of discretion on the part of the public officer, employee or member, or anyone over whom the public officer, employee or member has supervisory authority. The act or omissions must have been done in good faith and with the belief that the public interest would best be served by the act or omission.

Immunity does not extend to acts or omissions done with gross or wanton negligence.

DISTRICT OF COLUMBIA

D.C. Code § 7-2304.01. Issuance of public health emergency executive order.

Status: Re-enacted (March 17, 2020 pursuant to D.C. Act 23-247, § 301(b)).

Person(s) Covered: Licensed health care providers from the District of Columbia or other jurisdictions.

Conduct Covered: Civil liability for damages for any actions taken within the scope of employment or voluntary service.

Conduct Not Covered: Gross negligence.

Effective Date(s): March 17, 2020.

Summary: D.C. Code § 7-2304.01(d)(3) provides that a public health emergency executive order may include terms that exempt licensed health care providers, either from the District of Columbia or from other jurisdictions, for civil liability for damages for any actions taken within the scope of the provider's employment or voluntary service to implement the provisions of the District of Columbia response plan.

Immunity from civil liability will not extend to instances of gross negligence.

2. D.C. Act 23-286. COVID-19 Response Supplemental Temporary Amendment Act of 2020

Status: Enacted (April 10, 2020).

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Person(s) Covered: Person(s); employee of the District of Columbia not otherwise exempt under existing law; contractor providing services arising out of a contract with the District of Columbia.

Conduct Covered: Civil liability for damages for actions taken while acting within the scope of their employment or organization's purpose, voluntary service, or scope of work.

Conduct Not Covered: Gross negligence.

Effective Date(s): Authorized to extend the 15-day March 11, 2020 emergency executive order and public health emergency executive order for an additional 90-day period, and to be extended for additional 15-day periods by the Mayor.

Summary: The Act amends The District of Columbia Public Emergency Act of 1980 (D.C. Law 3-149; D.C. Official Code § 7-2301 et seq.) by adding a new paragraph (3A) which would exempt any person, employee of the District of Columbia not otherwise exempt under existing law, or contractor providing services arising out of a contract with the District of Columbia from civil liability for damages for actions taken while acting within the scope of their employment or organization's purpose, voluntary service, or scope of work to implement the provisions of the District of Columbia's response plan. Such immunity is solely for actions taken during the public health emergency.

Immunity from civil liability will not extend in instances of gross negligence.

FLORIDA

No Specific COVID-19 Legislation or Order.

GEORGIA

No Specific COVID-19 Legislation or Order.

HAWAII

No Specific COVID-19 Legislation or Order.

IDAHO

No Specific COVID-19 Legislation or Order.

ILLINOIS

[Executive Order 2020-19, Executive Order in Response to COVID-19 \(COVID-19 Executive Order No. 17\).](#)

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NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

Status: Issued (April 1, 2020).

Person(s) Covered: Health care facilities; health care professionals; health care volunteers.

Conduct Covered: Civil liability for any injury or death alleged to have been caused by an act or omission, which injury or death occurred at a time when a health care facility was rendering assistance to the State by providing health care services in response to the COVID-19 outbreak.

Conduct Not Covered: Gross negligence; willful misconduct of a health care facility if 20 ILCS 3305/15 is applicable, or by willful misconduct if 20 ILCS 3305/21 is applicable.

Effective Date(s): April 1, 2020 and for the remainder of the duration of the Gubernatorial Disaster Proclamations.

Summary: Pursuant to Sections 15 and 21(b)-(c) of the IEMA Act, 20 ILCS 3305/15 and 21(b)-(c), I direct that during the pendency of the Gubernatorial Disaster Proclamations, Health Care Professionals, Health Care Facilities, and Health Care Volunteers, as defined in the Executive Order, are immune from civil liability for any injury or death alleged to have been caused by any act or omission by the Health Care Professional, Health Care Facility, or Health Care Volunteer, which injury or death occurred at a time when a Health Care Professional, Health Care Facility, or Health Care Volunteer was engaged in the course of rendering assistance to the State by providing health care services in response to the COVID-19 outbreak.

Immunity is inapplicable if it is established that such injury or death was caused by gross negligence or willful misconduct, if 20 ILCS 3305/15 is applicable, or by willful misconduct, if 20 ILCS 3305/21 is applicable.

INDIANA

No Specific COVID-19 Legislation or Order.

IOWA

No Specific COVID-19 Legislation or Order.

KANSAS

No Specific COVID-19 Legislation or Order.

KENTUCKY

2020 K.Y. S.B. No. 150. An Act relating to the state of emergency in response to COVID-19 and declaring an emergency.

Status: Enacted (March 30, 2020).

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Person(s) Covered: Health care provider.

Conduct Covered: Civil liability for ordinary negligence if exercising ordinary, reasonable, and prudent health care in good faith.

Conduct Not Covered: Anything other than ordinary negligence.

Effective Date(s): Until January 1, 2021.

Summary: During the state of emergency declared by the Governor in response to COVID-19 on March 6, 2020, by Executive Order 2020-215, a health care provider who in good faith renders care or treatment of a COVID-19 patient during the state of emergency has a civil liability defense for ordinary negligence for personal injury resulting from the care or treatment, or from any act in providing or arranging further medical treatment. The health care provider must act as an ordinary, reasonable, and prudent health care provider would have acted under the same or similar circumstances.

The defense includes a health care provider who (1) prescribes or dispenses medicines for off-label use to attempt to combat the COVID-19 virus; (2) provides health care services, upon the request of health care facilities or public health entities, that are outside the provider's professional scope of practice; or (3) utilize equipment or supplies outside of the product's normal use for medical practice and the provision of health care services.

LOUISIANA

LSA-R.S. 29:771(B)(2)(c). Miscellaneous (Louisiana Health Emergency Powers Act)

Status: Enacted (Current through 2019 Regular Session).

Person(s) Covered: Health care providers.

Conduct Covered: Civil liability for causing the death of, or injury to, any person.

Conduct Not Covered: Gross negligence; willful misconduct.

Effective Date(s): Current through 2019 Regular Session.

Summary: LSA-R.S. 29:771(B)(2)(c) orders that during a state of public health emergency, any health care provider^[1] is not civilly liable for causing the death of, or injury to, any person or damage to any property.

Civil immunity does not extend to gross negligence or willful misconduct.

2. LSA-R.S. 37:1731.1. Medical services during declared state of emergency; limitation of liability (Good Samaritan Law)

Status: Enacted (June 30, 2008; Current through 2019 Regular Session).

Person(s) Covered: Medical personnel.

Conduct Covered:

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Civil damages or injury as a result of any act or omission related to the rendering of or failure to render services.

Conduct Not Covered: Gross negligence; willful and wanton misconduct.

Effective Date(s): Precipitating event requiring a declared state of emergency through the period of time set forth in the declaration of a state of emergency.

Summary: LSA-R.S. 37:173.1 provides that medical personnel who in good faith, and regardless of compensation, render or fail to render emergency care, health care services or first aid during a declared state of emergency (when the state of emergency affects the rendering of medical care), will not be liable for any civil damages or injury as a result of any act or omission related to the rendering or failure to render services.

Civil immunity does not extend to damages or injury caused by gross negligence or willful and wanton misconduct.

The definition of “declared state of emergency,” provides that the statutory provision is effective during the period of time set forth in the Governor’s declaration and shall also be retroactive to the precipitating event requiring the declaration.

3. Senate Bill No. 445, LIABILITY: Provides relative to limitation of civil liability for medical personnel and healthcare providers during public health emergency.

Status: Introduced in the Senate (Mar. 31, 2020)

Person(s) Covered: See R.S. 29:771(B)(2)(c) and R.S. 37:1731.1, above.

Conduct Covered: See R.S. 29:771(B)(2)(c) and R.S. 37:1731.1, above.

Conduct Not Covered: See R.S. 29:771(B)(2)(c) and R.S. 37:1731.1, above.

Effective Date(s): March 11, 2020 (retroactive).

Summary: An Act to amend and reenact R.S. 29:771(B)(2)(c) and (d) and R.S. 37:1731.1, relative to immunity from civil liability, to provide relative to certain immunity from civil liability for medical personnel and healthcare providers during public health disasters or emergencies, and to provide definitions, terms, conditions, and requirements, and to provide for related matters.

The proposed law revises when the present law is applicable and revises the definition of “during a declared state of emergency” to include R.S. 29:760 et seq. The proposed law further provides that due to the imminent threat posed by COVID-19, as provided in Proclamation Number 25 JBE 2020 and any subsequent proclamation declaring the existence of a statewide public health emergency, that the proposed law shall be retroactive to March 11, 2020.

4. House Bill No. 778, EMERGENCY PREPAREDNESS: Provides for the limitation of liability during a declaration of a state of public health emergency

Status: Introduced into the House (Mar. 31, 2020).

Person(s) Covered: See R.S. 29:771(B)(2)(c).

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Conduct Covered: See R.S. 29:771(B)(2)(c).

Conduct Not Covered: See R.S. 29:771(B)(2)(c).

Effective Date(s): During the state of public health emergency (and effective upon signature of governor or lapse of time for gubernatorial action).

Summary: An Act to amend and reenact R.S. 29:771(B)(2)(c) and (d), relative to the Louisiana Health Emergency Powers Act, to provide for a limitation on liability during a state of public health emergency, to provide for the liability of healthcare providers, to provide for the liability of private entities, and to provide for related matters.

The proposed law makes it effective only during a state of public health emergency declared, as provided in the present law.

[1] "Health care provider" under this provision is **not** limited "to only those medical personnel rendering emergency assistance voluntarily due to the emergency in the area." *Lejeune v. Steck*, 138 So. 3d 1280, 1283 13-1017 (La. App. 5 Cir. 2014), writ denied sub nom. *Daigle v. Steck*, 149 So. 3d 800 (La. 2014).

MAINE

No Specific COVID-19 Legislation or Order.

MARYLAND

No Specific COVID-19 Legislation or Order.

MASSACHUSETTS

Senate Bill 2630. An Act to provide liability protections for health care workers and facilities during the COVID-19 Pandemic

Status: Hearing scheduled (Apr. 10, 2020).

Person(s) Covered: Health care professionals; health care facilities.

Conduct Covered: Suit and civil liability for damages alleged to have been sustained by an act or omission in the arranging for or providing of health care services in good faith.

Conduct Not Covered: Act or omission constituting gross negligence, recklessness, or conduct with an intent to harm; consumer protection actions brought by the Attorney General; false claims actions brought by or on behalf of the Commonwealth.

Effective Date(s): March 10, 2020 (declaration of COVID-19 emergency) and until terminated or rescinded.

(CONTINUED)

NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

Summary: A bill introduced by the Governor which provides that health care professionals and health care facilities, as defined by the Act, are immune from suit and civil liability for any damages alleged to have been sustained by an act or omission by the health care professional or health care facility in the course of providing health care services during the period of the COVID-19 emergency, provided that they are (1) arranging for or providing health care services pursuant to a COVID-19 emergency rule and in accordance with otherwise applicable law; (2) arranging for or providing care or treatment of the individual was impacted by the health care facility's or health care professional's decisions or activities in response to or as a result of the COVID-19 outbreak or COVID-19 emergency rules; and (3) the health care facility or health care professional is arranging for or providing health care services in good faith.

Immunity is inapplicable if the damage was caused by an act or omission constituting gross negligence, recklessness or conduct with an intent to harm, and shall not apply to consumer protection actions brought by the Attorney General, or to false claims actions brought by or on behalf of the Commonwealth.

MICHIGAN

C.L.A. 30.411, Personnel of disaster relief forces, powers, duties, rights, privileges and immunities and compensation (Michigan Emergency Management Act).

Status: Enacted (Current through P.A. 2020, No. 84, of the 2020 Regular Session, 100th Legislature).

Person(s) Covered: A person licensed to practice medicine or osteopathic medicine and surgery or a licensed hospital, whether licensed in Michigan or another state or by the federal government or a branch of the armed forces of the United States; a registered nurse, practical nurse, nursing student acting under the supervision of a licensed nurse, a dentist, a veterinarian, a pharmacist, a pharmacist intern acting under the supervision of a licensed pharmacist, and a paramedic, if licensed in Michigan or another state or by the federal government or a branch of the armed forces of the United States; a medical resident undergoing training in a licensed hospital in Michigan or another state.

Conduct Covered: Liability for injury sustained in the rendering of services during a state of disaster declared by the governor, regardless of how or under what circumstances or by what cause those injuries are sustained.

Conduct Not Covered: An act or omission that is willful or gross negligence, as defined in the Act.

Effective Date(s): N/A

Summary: M.C.L.A. 30.411(4) provides that a person that is licensed to practice medicine or osteopathic medicine and surgery, or a licensed hospital, whether licensed in Michigan or in another state, or by the federal government or a branch of the armed forces of the United States, who renders services during a state of disaster declared by the governor, and at the express or implied consent of a governmental official,

is considered an authorized disaster relief worker or facility, and is not liable for an injury sustained by a person by reason of those services, regardless of how, under what circumstances, or by what cause those injuries are sustained. The same immunity extends to the following individuals: a registered nurse; a practical nurse; a nursing student acting under the supervision of a licensed nurse; a dentist; a veterinarian; a pharmacist; a pharmacist intern acting under the supervision of a licensed pharmacist; a paramedic; and a medical resident undergoing training in a licensed hospital in Michigan or another state.

Immunity is inapplicable in the event of an act or omission that is willful or gross negligence. Gross negligence is

(CONTINUED)

NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

defined within the subsection (9) to mean conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results. If a civil action for malpractice is filed alleging an act or omission that is willful or gross negligence resulting in injuries, the services rendered are to be judged according to the standards required of persons licensed in the State.

2. Executive Order No. 2020-30. Temporary relief from certain restrictions and requirements governing the provision of medical services.

Status: Issued (March 30, 2020).

Person(s) Covered: Licensed health care professional or designated health care facility providing medical services in support of the state's response to the COVID-19 pandemic.

Conduct Covered: Liability for an injury sustained.

Conduct Not Covered: Gross negligence.

Effective Date(s): March 30, 2020 and continuing until the end of the declared emergency.

Summary: Under Executive Order 2020-30, the Governor of Michigan provided that consistent with MCL 30.411(4), any licensed health care professional or designated health care facility that provides medical services in support of the state's response to the COVID-19 pandemic is not liable for an injury sustained by a person by reason of those services, regardless of how, under what circumstances, or by what cause those injuries are sustained.

Immunity from liability is inapplicable where it is established that injury or death was caused by the gross negligence, as defined in MCL 30.411(9), of the health care professional or designated health care facility.

3. Executive Order No. 2020-39. Temporary relief from certain restrictions and requirements governing the provision of emergency medical services

Status: Issued (Apr. 8, 2020).

Person(s) Covered: Emergency medical services personnel or life support agency.

Conduct Covered: Liability for an injury sustained.

Conduct Not Covered: Gross negligence.

Effective Date(s): April 8, 2020 until the end of the declared state of emergency and disaster.

Summary: Under Executive Order 2020-39, the Governor of Michigan provided that consistent with section 11(4) of the Emergency Management Act, 1976 PA 390, as amended MCL 30.411(4), an emergency medical services personnel or life support agency that provides medical services in support of the state's response to the COVID-19 pandemic is not liable for an injury sustained by a person by reason of those services, regardless of how or under what circumstances or by what cause those injuries are sustained.

Immunity from liability is inapplicable where it is established that injury or death was caused by the gross negligence, as defined in MCL 30.411(9) of the emergency medical services personnel or life support agency.

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NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

MINNESOTA

No Specific COVID-19 Legislation or Order.

MISSISSIPPI

Executive Order No. 1471.

Status: Issued (April 10, 2020).

Person(s) Covered: Healthcare professional; healthcare facility.

Conduct Covered: Suit for civil liability for any injury or death alleged to have been sustained because of acts or omissions while providing health care services.

Conduct Not Covered: Acts or omissions that constitute a crime, fraud, malice, reckless disregard, willful misconduct, or would otherwise constitute a false claim under federal law.

Effective Date(s): April 10, 2020 until 11:59 p.m. on May 15, 2020, unless it is modified, amended, or superseded.

Summary: The Executive Order, pursuant to the Mississippi Emergency Management Act, provides that any Healthcare Professional or Healthcare Facility, as defined in the Executive Order, is immune from suit for civil liability for any injury or death alleged to have been sustained because of the Healthcare Professional or Facility's acts or omissions while providing healthcare services, including but not limited to screening, assessing, diagnosing, and treating patients for COVID-19, or otherwise acting in support of the State's COVID-19 response. Acts or omissions undertaken because of a lack of resources attributable to the COVID-19 pandemic that render the Healthcare Professional or Facility unable to provide the level or manner of care that would otherwise be required are included in the immunity.

Immunity does not extend to acts or omissions that constitute a crime, fraud, malice, reckless disregard, willful misconduct, or would otherwise constitute a false claim pursuant to 31 U.S.C. §3729 *et seq.*

"Healthcare Facility" includes hospitals, clinics, nursing homes, mental health centers, and field hospitals, and any other facilities designated for temporary use for the purpose of providing healthcare services in support of the State's COVID-19 response. "Healthcare Professional" includes any individual licensed, registered, permitted, or certified in any state, whether paid or unpaid, who is providing health care services in response to the COVID-19 outbreak at a Healthcare Facility, or working for the State in response to its 2020 Disaster Proclamation.

MISSOURI

No Specific COVID-19 Legislation or Order.

MONTANA

(CONTINUED)

NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

No Specific COVID-19 Legislation or Order.

NEBRASKA

No Specific COVID-19 Legislation or Order.

NEVADA

No Specific COVID-19 Legislation or Order.

NEW HAMPSHIRE

No Specific COVID-19 Legislation or Order.

NEW JERSEY

J.S.A. 26:13-19, Immunity from liability and applicable definitions.

Status: Enacted (Current with laws through L.2020, c.17).

Person(s) Covered: A person or private entity (including a health care provider) and the employees of the entity.

Conduct Covered: Liability for injury caused by an act or omission in connection with a public health emergency, or preparatory activities.

Conduct Not Covered: Conduct outside the scope of the authority granted by the act; conduct that constitutes a crime, actual fraud, actual malice, gross negligence or willful misconduct; acts or omissions that caused or contributed to the public health emergency.

Effective Date(s): September 14, 2005.

Summary: N.J.S.A. 26:13-19(c)(2) provides that a person or private entity, and the employees of the entity, will not be liable for an injury caused by an act or omission in connection with a public health emergency, or preparatory activities, provided that the action is undertaken pursuant to the exercise of the authority provided under the act.

Immunity is inapplicable for an injury that results from an act that is outside the scope of the authority granted by the act or for conduct that constitutes a crime, actual fraud, actual malice, gross negligence or willful misconduct.

“Private entity,” as used in subsection (c), includes but is not limited to a health care provider.

2. Executive Order No. 122.

Status: Issued (April 1, 2020).

(CONTINUED)

NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

Person(s) Covered: Individuals practicing a healthcare profession or occupation; individuals granted temporary authority to practice a healthcare profession or occupation; healthcare facilities; modular field treatment facilities; any other site designated by the Commissioner of the Department of Health for temporary use for the purpose of providing essential services.

Conduct Covered: Civil liability for any damages alleged to have been sustained as a result of the individual's acts or omissions undertaken in good faith while providing health care services or services in support of the State's COVID-19 response.

Conduct Not Covered: Acts or omissions constituting a crime, actual fraud, actual malice, gross negligence or willful misconduct.

Effective Date(s): At any time during the State of Emergency (retroactively applied).

Summary: The Executive Order extends the immunity granted in N.J.S.A. 26:13-19 to healthcare providers and provides immunity from civil liability for individuals practicing a healthcare profession or occupation in New Jersey, individuals granted temporary authority to practice a healthcare profession or occupation in New Jersey, healthcare facilities, modular field treatment facilities, any other site designated by the Commissioner of the Department of Health for temporary use. Immunity for civil liability is available for the purpose of providing essential services for any damages alleged to have been sustained as a result of an act or omission undertaken in good faith in the course of providing healthcare services or services in support of the State's COVID-19 response, whether or not within the scope of their practice and whether or not immunity is otherwise available under current law.

Immunity from civil liability is inapplicable to the extent that acts or omissions constitute a crime, actual fraud, actual malice, gross negligence or willful misconduct.

"Healthcare facility" has the meaning provided by N.J.S.A. 26:13-2, which includes institutions, buildings or agencies operated and designed to provide health services, medical or dental treatment or nursing, rehabilitative, or preventative care to any person, and as more fully set forth in the definition.

3. 2020 NJ Senate Bill No. 2333, Provides civil and criminal immunity to certain health care professionals and health care facilities during public health emergency and state of emergency; facilitates issuance of certain temporary licenses and certifications during public health emergency.

Status: Passed Assembly (Both Houses) (April 13, 2020).

Person(s) Covered: Health care professional; health care facility or health care system that owns or operates more than one health care facility.

Conduct Covered: Civil damages for injury or death alleged to have been sustained as a result of an act or omission undertaken in good faith. As to a health care facility or a health care system that owns or operates more than one health care facility, criminal or civil liability for damages for injury or death alleged to have been sustained as a result of an act or omission in connection with allocation of mechanical ventilators or other scarce medical resources, subject to allocation plans.

Conduct Not Covered: Acts or omissions constituting a crime, actual fraud, actual malice, gross negligence, recklessness, or willful misconduct.

(CONTINUED)

NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

Effective Date(s): March 9, 2020 (retroactive).

Summary: Under subsections (1)(c) and (d) of the Act, as adopted, a health care professional, a health care facility, or a health care system that owns or operates more than one health care facility would not be liable for civil damages for injury or death alleged to have been sustained as a result of an act or omission in the course of providing medical services in support of the State's response to the outbreak of coronavirus disease during the public health emergency and state of emergency declared by the Governor in Executive Order 103 of 2020.

Immunity would also include any act or omission undertaken in good faith by a health care professional or healthcare facility or health care system to support efforts to treat COVID-19 patients and to prevent the spread of COVID-19 during the public health emergency and state of emergency declared by the Governor in Executive Order 103 of 2020, including but not limited to engaging in telemedicine or telehealth, and diagnosing or treating patients outside the normal scope of the health care professional's license or practice. The immunity granted pursuant to this provision would not apply to acts or omissions constituting a crime, actual fraud, actual malice, gross negligence, recklessness, or willful misconduct, and shall be retroactive to March 9, 2020.

The Act provides that a health care facility or a health care system that owns or operates more than one health care facility would not be criminally or civilly liable for damages for injury or death alleged to have been sustained as a result of an act or omission by the facility or system or one or more of the facility's or system's agents, officers, employees, servants, representatives or volunteers during the public health emergency and state of emergency declared by the Governor in Executive Order 103 of 2020 in connection with the allocation of mechanical ventilators or other scarce medical resources, if the health care facility or system adopts and adheres to a scarce critical resource allocation policy that at a minimum incorporates the core principles identified by the Commissioner of Health in an executive directive or administrative order, and the health care facility's or system's agents, officers, employees, servants, representatives and volunteers would not be civilly or criminally liable for an injury caused by any act or omission pursuant to the bill during the public health emergency and state of emergency declared by the Governor in Executive Order 103 of 2020 pursuant to, and consistent with, such policy.

NEW MEXICO

No Specific COVID-19 Legislation or Order

NEW YORK

[Executive Order 202: Declaring a Disaster Emergency in the State of New York \(Mar. 7, 2020\):](#)
[Executive Order 202.10: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency \(March 23, 2020\).](#)

Status: Issued (March 23, 2020).

Conduct Covered: Civil liability for injury or death alleged to have been sustained directly as a result of an act or omission by person(s) covered.

Person(s) Covered: Physicians, physician assistants; specialist assistants; nurse practitioners; licensed registered professional nurses; licensed practical nurses.

(CONTINUED)

NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

Conduct Not Covered: Gross negligence.

Effective Date(s): March 23, 2020 – April 22, 2020.

Summary: Executive Order 202.10 provides in part that Subdivision (2) of section 6527, Section 6545, and Subdivision (1) of Section 6909 of the Education Law are modified and/or suspended to the extent necessary to provide that all physicians, physician assistants, specialist assistants, nurse practitioners, licensed registered professional nurses and licensed practical nurses are immune from civil liability for any injury or death alleged to have been sustained directly as a result of an act or omission by such medical professional in the course of providing medical services in support of the State's response to the COVID-19 outbreak. Immunity does not extend to medical professionals where it is established that such injury or death was caused by the gross negligence of the medical professional. As such, there is no immunity from suit.

Per Executive Order 202.5 and 202.10, the list of medical professionals authorized to provide medical services in New York State continues to grow, including but not limited to those authorized to practice in the United States but not licensed in the State of New York.

2. Emergency or Disaster Treatment Protection Act, N.Y. Public Health Law, Article 30-D, §§ 3080 *et seq.*

Status: Enacted.

Person(s) Covered: Health care facilities; health care professionals; volunteer organizations (all as defined by statute and by COVID-19 emergency rules).

Conduct Covered: Civil or criminal liability for 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 service in good faith.

Conduct Not Covered: Willful or intentional criminal misconduct; gross negligence; reckless misconduct, or intentional infliction of harm by the health care facility or health care professional, which do not include (for health care professionals or facilities) acts, omissions or decisions resulting from resource or staffing shortages.

Effective Date(s): March 7, 2020 (retroactive to Executive Order 202) to the expiration date of the COVID-19 emergency declaration.

Summary: Pursuant to the newly enacted Article 30-D of New York's Public Health Law, New York is providing broad-sweeping immunity from civil or criminal liability for harm or damages sustained as a result of COVID-19. Pursuant to Article 30-D, any health care facility or health care professional, as defined, will have immunity from civil or criminal liability for any harm or damage, as defined, alleged to have been sustained as a result of an act or omission in the course of arranging for or providing health care services, as defined, so long as (a) the health care facility or professional is arranging for or providing health care services pursuant to a COVID-19 emergency rule, as defined, or otherwise in accordance with applicable law, (b) the act or omission occurs in the course of providing health care services and treatment of individual is impacted by the health care facility or professional's decisions or activities in response to or as a result of the COVID-19 outbreak and in support of the state's directives; and (c) the health care facility or professional is arranging for or providing health care services in good faith.

Additionally, volunteer organizations, as defined, are immune from civil or criminal liability for harm or damages irrespective of the cause of the harm or damage 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

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NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

emergency rule.

The immunity for health care professionals, facilities, and volunteer organizations will not apply if the harm or damage is caused by an act or omission constituting willful or intentional criminal conduct, gross negligence, reckless misconduct, or intentional infliction of harm by the health care facility or professional providing health care services or by the volunteer organization. However, acts, omissions or decisions of health care professionals or facilities resulting from resource or staffing shortages are not considered willful or intentional criminal misconduct, gross negligence, reckless misconduct, or intentional infliction of harm.

NORTH CAROLINA

No Specific COVID-19 Legislation or Order.

NORTH DAKOTA

No Specific COVID-19 Legislation or Order.

OHIO

2019 Ohio House Bill No. 606. To grant civil immunity to a person who provides services for essential businesses and operations for injury, death, or loss that was caused by the transmission of COVID-19 during the period of emergency declared by Executive Order 2020-01D, issued on March 9, 2020, and to declare an emergency.

Status: Introduced (April 10, 2020).

Person(s) Covered: A person providing services for essential business and operations.

Conduct Covered: Civil liability for any injury, death, or loss to person or property that was caused by the transmission of COVID-19.

Conduct Not Covered: Acts manifestly outside the scope of the person's responsibilities; with malicious purpose; in bad faith; or in a wanton or reckless manner.

Effective Date(s): Date of enactment.

Summary: The bill seeks to grant civil immunity to a person who provides services for essential businesses and operations for injury, death, or loss that was caused by the transmission of COVID-19 during the period of emergency declared by Executive Order 2020-01D, issued on March 9, 2020, and to declare an emergency.

Immunity does not extend to a person who acts manifestly outside the scope of the person's responsibilities, with malicious purpose, in bad faith, or in a wanton or reckless manner.

The bill does not eliminate, limit or reduce any immunity from civil liability conferred upon a person who provides

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NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

services to essential businesses and operations by any other provision of the Revised Code or case law.

“Essential businesses and operations” has the meaning given in the Director of Health’s order under section 3701.13 of the Revised Code “Re: Director’s Order that All Persons Stay at Home Unless Engaged in Essential Work or Activity” issued on March 23, 2020.

OKLAHOMA

No Specific COVID-19 Legislation or Order.

OREGON

No Specific COVID-19 Legislation or Order.

PENNSYLVANIA

No Specific COVID-19 Legislation or Order.

RHODE ISLAND

No Specific COVID-19 Legislation or Order.

SOUTH CAROLINA

No Specific COVID-19 Legislation or Order.

SOUTH DAKOTA

No Specific COVID-19 Legislation or Order.

TENNESSEE

No Specific COVID-19 Legislation or Order.

TEXAS

No Specific COVID-19 Legislation or Order.

(CONTINUED)

NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

UTAH

No Specific COVID-19 Legislation or Order.

VERMONT

No Specific COVID-19 Legislation or Order.

VIRGINIA

No Specific COVID-19 Legislation or Order.

WASHINGTON

No Specific COVID-19 Legislation or Order.

WEST VIRGINIA

No Specific COVID-19 Legislation or Order.

WISCONSIN

No Specific COVID-19 Legislation or Order.

WYOMING

No Specific COVID-19 Legislation or Order.

**National Survey of COVID-19 Medical Malpractice
Immunity Legislation (as of April 15, 2020)**

(CONTINUED)

NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

16 Apr 2020

Christopher P. Ferragamo,

The below survey of federal and state legislation, guidance, and executive action provides information regarding enacted and proposed legislation and executive orders issued to provide immunity protections for liability, in certain respects, to health care professionals, facilities, and volunteers in the course of their treatment of individuals during the course of the COVID-19 pandemic and the declared national and state emergencies. The information provided herein is a summary of the relevant portions of the proposed and enacted legislation and executive orders and is subject to change.

FEDERAL

Coronavirus Aid, Relief and Economic Security Act ("CARES Act"), Pub. L. 116-136 (March 27, 2020)

Status: Enacted (March 27, 2020).

Person(s) Covered: Volunteer healthcare professionals.

Conduct Covered: Errors or omissions causing harm (simple negligence).

Conduct Not Covered: Willful or criminal misconduct; gross negligence; reckless misconduct; conscience flagrant indifference to the rights or safety of the individual; rendering of medical care under the influence of alcohol or intoxicating drugs.

Effective Date(s): From date of enactment, March 27, 2020, and only for the length of the public health emergency declared by the Secretary of Health and Human Services under Section 319 of the Public Health Service Act (42 U.S.C. 247d) on January 31, 2020 with respect to COVID-19.

Summary: Section 3215, Limitation on Liability for Volunteer Health Care Professionals During COVID-19 Emergency Response, preempts state law and provides immunity from federal and state malpractice lawsuits to healthcare professionals who volunteer to provide medical care during the COVID-19 national public health emergency and, through an act or omission of the professional, cause harm (physical, nonphysical, economic and noneconomic losses). To obtain the protection, the act or omission must occur (A) in the course of providing health care services, as defined; (B) in the health care professional's capacity as a volunteer, as defined; (C) in the course of providing health care services that are within the scope of their professional license, registration, or certification and do not exceed it (based on State law in which act or omission occurs) and (D) in a good faith belief that the individual being treated is in need of healthcare services. without expectation of reimbursement (with the exception of travel) or payment.

The protections afforded are in addition to the protections afforded by the Volunteer Protection Act of 1997 (Pub. L. 105-19).

Immunity will not be available if a provider causes harm through willful or criminal misconduct, gross negligence, reckless misconduct, conscience flagrant indifference to the rights or safety of the individual, or the rendering of medical care under the influence of alcohol or intoxicating drugs (as determined pursuant to applicable State law).

2. Department of Health and Human Services Declaration Under the Public Readiness and Emergency Preparedness

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NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

Act for Medical Countermeasures Against COVID-19.

Status: Effective (Feb. 4, 2020).

Person(s) Covered: Manufacturers; distributors; program planners; and qualified persons, and their officials, agents, and employees; and the United States, as defined in the Declaration.

Conduct Covered: Claims of loss caused, arising out of, relating to, or resulting from administration or use of countermeasures to COVID-19 determined by the Secretary to constitute a present, or credible risk of a future public health emergency.

Conduct Not Covered: Willful misconduct.

Effective Date(s): February 4, 2020 through (1) the final day the emergency Declaration is in effect, or (2) October 1, 2024, whichever occurs first.

Summary: The Secretary of Health and Human Services issued a Declaration pursuant to section 319F-3 of the Public Health Service Act (42 U.S.C. 247d-6d) to provide liability immunity (except for willful misconduct) for activities related to medical countermeasures for claims of loss caused, arising out of, relating to, or resulting from administration or use of countermeasures to COVID-19 determined by the Secretary to constitute a present, or credible risk of a future public health emergency. Such immunity is given to manufacturers, distributors, program planners, and qualified persons, and their officials, agents, and employees, and the United States. "Qualified persons" includes a licensed healthcare professional or other individual authorized to prescribe, administer, or dispense "Covered Countermeasures" under the law of the state in which the "Covered Countermeasure" was prescribed, administered or dispensed.

The PREP Act states that a "Covered Countermeasure" must be a "qualified pandemic or epidemic product," or a "security countermeasure," as defined, or a drug, biological product or device authorized for emergency use in accordance with Sections 564, 564A, or 564B of the FD&C Act. "Covered Countermeasures" include any antiviral, any other drug, any biologic, any diagnostic, any other device, or any vaccine, used to treat, diagnose, cure, prevent, or mitigate COVID-19, or the transmission of SARS-CoV-2 or a virus mutating therefrom, or any device used in the administration of any such product, and all components and constituent materials of any such product.

The PREP Act further authorizes the Countermeasures Injury Compensation Program (CICP) to provide benefits to certain individuals or estates of individuals who sustain a covered serious physical injury as the direct result of the administration or use of the Covered Countermeasures, and benefits to certain survivors of individuals who die as a direct result of the administration or use of the Covered Countermeasures. The causal connection between the countermeasure and the serious physical injury must be supported by compelling, reliable, valid, medical and scientific evidence in order for the individual to be considered for compensation. The CICP is administered by the Health Resources and Services Administration, within the Department of Health and Human Services.

3. Emergency Management Assistance Compact (EMAC), Pub. L. 104-321.

Status: Enacted (October 19, 1996).

Person(s) Covered: Officers or employees of a party state rendering aid in a requesting state pursuant to EMAC.

Conduct Covered: Tort liability and immunity in the requesting state for acts or omissions in good faith or on account of maintenance or use of any equipment or supplies in connection with EMAC.

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NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

Conduct Not Covered: Willful misconduct; gross negligence; recklessness.

Effective Date(s): N/A

Summary: The Emergency Management Assistance Compact (EMAC) is a multi-disciplinary mutual aid compact that permits, upon gubernatorial activation, that states may receive assistance from other states. Health care providers activated as part of EMAC would be considered agents of the state for purposes of tort liability and immunity. EMAC provides that no party state or its officers or employees rendering aid in another state pursuant to EMAC will be liable on account of any act or omission in good faith on the part of such forces while engaged, or on account of the maintenance or use of any equipment or supplies in connection with EMAC.

Good faith does not include willful misconduct, gross negligence, or recklessness.

4. 3372. Health Care Workforce Protection Act of 2020 (Sen. Fischer)

Status: Read twice and referred to the Committee on Health, Education, Labor, and Pensions (Mar. 2, 2020).

Person(s) Covered: Manufacturers; distributors; prescribers; and users.

Conduct Covered: Claims of loss caused, arising out of, relating to, or resulting from administration or use of certain respiratory protective devices as covered countermeasures.

Conduct Not Covered: Willful misconduct.

Effective Date(s): N/A

Summary: The Bill seeks to amend the Public Health Service Act to provide for treatment of certain respiratory protective devices as covered countermeasures for purposes of targeted liability protections for pandemic and epidemic products and security countermeasures, and for other purposes.

Willful misconduct has the meaning given it in the PREP Act.

5. Facilitating Innovation to Fight Coronavirus Act (Sen. Sasse)

Status: Not yet introduced.

Person(s) Covered: Health care providers.

Conduct Covered: Civil liability in any federal, state, or local proceeding.

Conduct Not Covered: N/A

Effective Date(s): During the duration of the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 *et seq.*) with respect to that disease.

Summary: The bill proposes that no health care provider, as defined in 3000(j) Public Health Services Act, 42 U.S.C. 300jj(3)), should be liable in any federal, state, or local civil proceeding for (1) using or modifying a medical device for an unapproved use or indication; (2) practicing without a license or outside of an area of specialty if instructed to do so by

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NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

an individual with such a license or with such an area of specialty; or (3) conducting the testing of, or the provision of treatment to, a patient outside of the premises of standard health care facilities, where such action was carried out to test, treat, or otherwise counter the effects of COVID-19 during the duration of the national emergency declared by the President with respect to COVID-19.

ALABAMA

No Specific COVID-19 Legislation or Order.

ALASKA

[AS 09.65.091. Civil Liability for Responding to Disaster.](#)

Status: Enacted (current through March 26, 2020).

Person(s) Covered: Persons.

Conduct Covered: Liability for the death or injury of any person; damage to property caused by that person's actions.

Conduct Not Covered: Intentional acts; reckless acts; gross negligence.

Effective Date(s): Current through March 26, 2020.

Summary: AS §09.65.091 provides that a person who provides equipment or services on the request of a police agency, fire department, rescue or emergency squad, or other governmental agency during a state of emergency declared by an authorized representative of the state or local government, will not be liable for the death of or injury to any person or damage to any property caused by the person's actions.

There is no immunity when the trier of fact finds that the person acted intentionally, recklessly, or with gross negligence.

2. [2019 Alaska Senate Bill No. 241. Extending COVID 19 Declaration/Relief](#)

Status: Enacted (April 10, 2020).

Person(s) Covered: Health care provider; manufacturer of personal protective equipment.

Conduct Covered: Civil liability resulting from an act or omission.

Conduct Not Covered: Gross negligence; recklessness; intentional misconduct.

Effective Date(s): March 11, 2020 to November 15, 2020

Summary: The bill amends the uncodified law of Alaska to add a new section entitled LIABILITY: PERSONAL PROTECTIVE EQUIPMENT. The new section reads that in addition to the immunity available under AS 09.65.091 (above), and during the COVID-19 public health disaster emergency declared by the governor on March 11, 2020, a health care provider or manufacturer of personal protective equipment is not liable for civil damages resulting from an

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NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

act or omission in issuing, providing, or manufacturing personal protective equipment in the event of injury or death to the user of the personal protective equipment if the personal protective equipment was issued, provided, or manufactured in good faith to respond to the COVID-19 public health disaster emergency.

Immunity does not extend for civil damages as a result of gross negligence, recklessness, or intentional misconduct. The health care provider or manufacturer of personal protective equipment must notify the user of the personal protective equipment that the equipment may not meet established federal standards and requirements.

“Health care provider” has the meaning given in AS 18.15.395 (which includes any person providing health care services, hospitals, medical clinics or offices, special care facilities, medical laboratories, and emergency medical works) and a nursing home.

ARIZONA

1. R.S. § 36-790, Privileges and immunities.

Status: Enacted (Current through legislation effective March 27, 2020).

Person(s) Covered: Person; health care provider.

Conduct Covered: Civil or criminal liability if acting in good faith.

Conduct Not Covered: N/A

Effective Date(s): May 23, 2002.

Summary: A.R.S. § 36-790.B. provides that a person or health care provider undertaking any activity required by A.R.S. Title 36, Chapter 6, Article 9, Enhanced Surveillance Advisories and Public Health Emergencies, including reporting, and participating in quarantine and isolation procedures, is immune from civil or criminal liability if the person or health care provider acted in good faith.

Subsection C. further provides that the immunities prescribed in A.R.S. § 26-314 for state, political subdivisions and officers, agents, employees and emergency workers extends to § 36-787 (public health authority), § 36-788 (isolation and quarantine), and § 36-789 (due process for isolation) during a state of emergency or state of war emergency.

2. Executive Order 2020-13, Enhanced Surveillance Advisory **COVID-19**

Status: Issued (March 23, 2020).

Person(s) Covered: Person; health care provider.

Conduct Covered: Civil or criminal liability if undertaking any activity required by the Enhanced Surveillance Advisories and Public Health Emergencies provisions of the Arizona Code, including reporting, and acting in good faith.

Conduct Not Covered: N/A

Effective Date(s): March 23, 2020 and effective for 60 days therefrom unless extended.

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NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

Summary: Executive Order 2020-13 identifies that pursuant to A.R.S. § 36-790(B), a person or health care provider undertaking any activity required by A.R.S. Title 36, Chapter 6, Article 9, which is the Enhanced Surveillance Advisories and Public Health Emergencies (“ESAPHE”) provisions of the Arizona Code, is immune from civil or criminal liability if the person or health care provider acted in good faith. The immunity extends to the undertaking of reporting, as defined by the ESAPHE.

3. Executive Order 2020-27, The “Good Samaritan” Order Protecting Frontline Healthcare Workers Responding to the COVID-19 Outbreak.

Status: Issued (April 9, 2020).

Person(s) Covered: Arizona healthcare professionals; volunteer healthcare professionals; Arizona Emergency Medical Care Technician; Arizona healthcare institutions; any entity operating a modular field treatment facility; any other site whether or not it is a licensed healthcare institution designated by the Director of the Arizona Department of Health Services for temporary use.

Conduct Covered: Civil liability for triage decisions made in the course of providing medical services based on a good faith reliance of mandatory or voluntary state-approved protocols and acts or omissions undertaken in good faith while providing healthcare services, all in support of the State’s public health emergency declaration for COVID-19.

Conduct Not Covered: Gross negligence or reckless or willful misconduct including, but not limited to, rendering medical care services under the influence of alcohol or an intoxicating drug.

Effective Date(s): April 9, 2020 through June 30, 2020 unless extended.

Summary: Executive Order 2020-27 provides immunity from civil liability for triage decisions made in the course of providing medical services based on good faith reliance of mandatory or voluntary state-approved protocols for an Arizona healthcare professional, a licensed Emergency Medical Care Technician, a licensed Arizona health care institution, an entity operating a modular field treatment facility, or any other site whether or not it is licensed if it is designated by the Director of the Arizona Department of Health Services for temporary use in support of the State’s COVID-19 response. A licensed Emergency Medical Care Technician is presumed to have acted in good faith in the course of providing emergency care services.

The Executive Order further provides immunity from civil liability for acts or omissions undertaken in good faith by one or more of the agents, officers, employees, representatives, or volunteers of a licensed Arizona healthcare institution, any entity operating a modular field treatment facility, or any other site whether or not it is licensed if it is designated by the Director of the Arizona Department of Health Services for temporary use in support of the State’s COVID-19 response.

Immunity is not provided for gross negligence or reckless or willful misconduct, including but not limited to the healthcare professional, volunteer or other individual rendering medical care services under the influence of alcohol or an intoxicating drug.

The immunities granted for actions or omissions undertaken during the term of the Executive Order survive expiration of the Executive Order.

ARKANSAS

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NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

Executive Order 20-18, Executive Order to Amend Executive Order 20-03 regarding the Public Health Emergency Concerning COVID-19 for the Purpose of Equipping Health Care Professionals with the Tools Necessary to Combat the COVID-19 Emergency.

Status: Issued (April 13, 2020).

Person(s) Covered: Physicians; physician assistants; specialist assistants; nurse practitioners; licensed registered nurses; and licensed practical nurses, whether employed by the State or Federal Government, a private entity, or non-profit entity.

Conduct Covered: Liability for any injury or death alleged to have been sustained directly as a result of an act or omissions by a medical professional in the course of providing medical services in support of the COVID-19 outbreak or implementation of measures to control the cause.

Conduct Not Covered: Acting outside the scope of his or her practice unless redeployed as a result of Section 3(d) of the Order; gross negligence; willful misconduct; bad faith.

Effective Date(s): April 13, 2020.

Summary: Executive Order 20-18 suspends the definition of “emergency responder” in Ark. Code Ann. § 12-75-103(7)(C) of the Arkansas Emergency Services Act of 1973 to the extent necessary to provide immunity from liability to “emergency responders,” defined in (4) of the Executive Order to include physicians, physician assistants, specialist assistants, nurse practitioners, licensed registered nurses, and licensed practical nurses. Immunity from civil liability is provided for any injury or death alleged to have been sustained directly as a result of an act or omission by such medical professional in the course of providing medical services in support of the State’s response to COVID-19 outbreak or the implementation of necessary measures to control the causes of the COVID-19 epidemic.

Immunity does not extend to an emergency responder who, as a result of his or her act or omissions, caused an injury or death due to acting outside the scope of his or her practice unless redeployed as a result of Section 3(d) of the Executive Order, or acting in gross negligence, willful misconduct, or bad faith.

CALIFORNIA

No Specific COVID-19 Legislation or Order.

COLORADO

No Specific COVID-19 Legislation or Order.

CONNECTICUT

Executive Order No. 7V, Protection of Public Health and Safety During COVID-19 Pandemic and Response – Safe Workplaces, Emergency Expansion of the Healthcare Workforce.

Status: Issued (April 7, 2020).

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NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

Person(s) Covered: Health care professional; health care facility.

Conduct Covered: Civil liability for death or injury allegedly sustained because of an act or omission undertaken in good faith.

Conduct Not Covered: Acts or omissions that constitute a crime, fraud, malice, gross negligence, willful misconduct, or would otherwise constitute a false claim or prohibited act pursuant to Section 4-275 *et seq.* or 31 U.S.C. §3729 *et seq.*

Effective Date(s): At any time during the public health and civil preparedness emergency declared on March 10, 2020, including any period of extension or renewal, and including acts or omissions occurring prior to the issuance of the Executive Order attributable to COVID-19 response efforts.

Summary: Executive Order No. 7V supersedes Executive Order No. 7U, Section 1 – Protection from Civil Liability for Actions or Omissions in Support of the State’s COVID-19 Response and replaces it with a provision providing that any health care professional or health care facility, as defined, shall be immune from suit for civil liability for any injury or death alleged to have been sustained because of the individual’s or health care facility’s acts or omissions undertaken in good faith while providing health care services in support of the State’s COVID-19 response. Such acts or omissions include, but are not limited to, a lack of resources attributable to the COVID-19 pandemic that renders the health care professional or health care facility unable to provide the level or manner of care that otherwise would have been required.

Immunity will not extend to acts or omissions that constitute a crime, fraud, malice, gross negligence, willful misconduct, or would otherwise constitute a false claim or prohibited act pursuant to Section 4-275 *et seq.* or 31 U.S.C. §3729 *et seq.*

“Health care facility” as defined by the Executive Order, includes facilities designated by the Commissioner of the Department of Public Health for temporary use for the purposes of providing essential services in support of the State’s COVID-19 response. “Health care professional” includes an individual licensed, registered, permitted, or certified in any state in the United States and any retired professional, professional with an inactive license, or volunteer approved by the Commissioner of the Department of Public Health or her designee.

DELAWARE

Joint Order of the Department of Health and Social Services and The Delaware Emergency Management Agency.

Status: Issued (March 24, 2020).

Person(s) Covered: Out-of-state health care provider; inactive health care provider; qualified person appointed pursuant to the Order.

Conduct Covered: Civil liability (and indemnification from the State).

Conduct Not Covered: Gross negligence; wanton negligence.

Effective Date(s): March 24, 2020.

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NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

Summary: The Joint Order provides that any out-of-state health care provider, inactive health care provider, or qualified person appointed pursuant to the Joint Order is considered a public employee under 10 Del. C. §§ 4001-4002 which provides for immunity from civil suit or proceeding or administrative tribunal, and indemnification from the State, for civil liability alleged against public officers and employees provided that the act or omissions arose out of and in connection with the performance of an official duty requiring a determination of policy, the interpretation or enforcement of statutes, rules or regulations, the granting or withholding of publicly created or regulated entitlements or privileges or any other official duty involving the exercise of discretion on the part of the public officer, employee or member, or anyone over whom the public officer, employee or member has supervisory authority. The act or omissions must have been done in good faith and with the belief that the public interest would best be served by the act or omission.

Immunity does not extend to acts or omissions done with gross or wanton negligence.

DISTRICT OF COLUMBIA

D.C. Code § 7-2304.01, Issuance of public health emergency executive order.

Status: Re-enacted (March 17, 2020 pursuant to D.C. Act 23-247, § 301(b)).

Person(s) Covered: Licensed health care providers from the District of Columbia or other jurisdictions.

Conduct Covered: Civil liability for damages for any actions taken within the scope of employment or voluntary service.

Conduct Not Covered: Gross negligence.

Effective Date(s): March 17, 2020.

Summary: D.C. Code § 7-2304.01(d)(3) provides that a public health emergency executive order may include terms that exempt licensed health care providers, either from the District of Columbia or from other jurisdictions, for civil liability for damages for any actions taken within the scope of the provider's employment or voluntary service to implement the provisions of the District of Columbia response plan.

Immunity from civil liability will not extend to instances of gross negligence.

2. D.C. Act 23-286, COVID-19 Response Supplemental Temporary Amendment Act of 2020

Status: Enacted (April 10, 2020).

Person(s) Covered: Person(s); employee of the District of Columbia not otherwise exempt under existing law; contractor providing services arising out of a contract with the District of Columbia.

Conduct Covered: Civil liability for damages for actions taken while acting within the scope of their employment or organization's purpose, voluntary service, or scope of work.

Conduct Not Covered: Gross negligence.

Effective Date(s): Authorized to extend the 15-day March 11, 2020 emergency executive order and public health

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NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

emergency executive order for an additional 90-day period, and to be extended for additional 15-day periods by the Mayor.

Summary: The Act amends The District of Columbia Public Emergency Act of 1980 (D.C. Law 3-149; D.C. Official Code § 7-2301 et seq.) by adding a new paragraph (3A) which would exempt any person, employee of the District of Columbia not otherwise exempt under existing law, or contractor providing services arising out of a contract with the District of Columbia from civil liability for damages for actions taken while acting within the scope of their employment or organization's purpose, voluntary service, or scope of work to implement the provisions of the District of Columbia's response plan. Such immunity is solely for actions taken during the public health emergency.

Immunity from civil liability will not extend in instances of gross negligence.

FLORIDA

No Specific COVID-19 Legislation or Order.

GEORGIA

No Specific COVID-19 Legislation or Order.

HAWAII

No Specific COVID-19 Legislation or Order.

IDAHO

No Specific COVID-19 Legislation or Order.

ILLINOIS

[Executive Order 2020-19, Executive Order in Response to COVID-19 \(COVID-19 Executive Order No. 17\).](#)

Status: Issued (April 1, 2020).

Person(s) Covered: Health care facilities; health care professionals; health care volunteers.

Conduct Covered: Civil liability for any injury or death alleged to have been caused by an act or omission, which injury or death occurred at a time when a health care facility was rendering assistance to the State by providing health care services in response to the COVID-19 outbreak.

Conduct Not Covered: Gross negligence; willful misconduct of a health care facility if 20 ILCS 3305/15 is applicable, or by willful misconduct if 20 ILCS 3305/21 is applicable.

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NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

Effective Date(s): April 1, 2020 and for the remainder of the duration of the Gubernatorial Disaster Proclamations.

Summary: Pursuant to Sections 15 and 21(b)-(c) of the IEMA Act, 20 ILCS 3305/15 and 21(b)-(c), I direct that during the pendency of the Gubernatorial Disaster Proclamations, Health Care Professionals, Health Care Facilities, and Health Care Volunteers, as defined in the Executive Order, are immune from civil liability for any injury or death alleged to have been caused by any act or omission by the Health Care Professional, Health Care Facility, or Health Care Volunteer, which injury or death occurred at a time when a Health Care Professional, Health Care Facility, or Health Care Volunteer was engaged in the course of rendering assistance to the State by providing health care services in response to the COVID-19 outbreak.

Immunity is inapplicable if it is established that such injury or death was caused by gross negligence or willful misconduct, if 20 ILCS 3305/15 is applicable, or by willful misconduct, if 20 ILCS 3305/21 is applicable.

INDIANA

No Specific COVID-19 Legislation or Order.

IOWA

No Specific COVID-19 Legislation or Order.

KANSAS

No Specific COVID-19 Legislation or Order.

KENTUCKY

2020 K.Y. S.B. No. 150. An Act relating to the state of emergency in response to COVID-19 and declaring an emergency.

Status: Enacted (March 30, 2020).

Person(s) Covered: Health care provider.

Conduct Covered: Civil liability for ordinary negligence if exercising ordinary, reasonable, and prudent health care in good faith.

Conduct Not Covered: Anything other than ordinary negligence.

Effective Date(s): Until January 1, 2021.

Summary: During the state of emergency declared by the Governor in response to COVID-19 on March 6, 2020, by Executive Order 2020-215, a health care provider who in good faith renders care or treatment of a COVID-19 patient during the state of emergency has a civil liability defense for ordinary negligence for personal injury resulting from the

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NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

care or treatment, or from any act in providing or arranging further medical treatment. The health care provider must act as an ordinary, reasonable, and prudent health care provider would have acted under the same or similar circumstances.

The defense includes a health care provider who (1) prescribes or dispenses medicines for off-label use to attempt to combat the COVID-19 virus; (2) provides health care services, upon the request of health care facilities or public health entities, that are outside the provider's professional scope of practice; or (3) utilize equipment or supplies outside of the product's normal use for medical practice and the provision of health care services.

LOUISIANA

LSA-R.S. 29:771(B)(2)(c). Miscellaneous (Louisiana Health Emergency Powers Act)

Status: Enacted (Current through 2019 Regular Session).

Person(s) Covered: Health care providers.

Conduct Covered: Civil liability for causing the death of, or injury to, any person.

Conduct Not Covered: Gross negligence; willful misconduct.

Effective Date(s): Current through 2019 Regular Session.

Summary: LSA-R.S. 29:771(B)(2)(c) orders that during a state of public health emergency, any health care provider^[1] is not civilly liable for causing the death of, or injury to, any person or damage to any property.

Civil immunity does not extend to gross negligence or willful misconduct.

2. LSA-R.S. 37:1731.1. Medical services during declared state of emergency; limitation of liability (Good Samaritan Law)

Status: Enacted (June 30, 2008; Current through 2019 Regular Session).

Person(s) Covered: Medical personnel.

Conduct Covered: Civil damages or injury as a result of any act or omission related to the rendering of or failure to render services.

Conduct Not Covered: Gross negligence; willful and wanton misconduct.

Effective Date(s): Precipitating event requiring a declared state of emergency through the period of time set forth in the declaration of a state of emergency.

Summary: LSA-R.S. 37:173.1 provides that medical personnel who in good faith, and regardless of compensation, render or fail to render emergency care, health care services or first aid during a declared state of emergency (when the state of emergency affects the rendering of medical care), will not be liable for any civil damages or injury as a result of any act or omission related to the rendering or failure to render services.

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NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

Civil immunity does not extend to damages or injury caused by gross negligence or willful and wanton misconduct.

The definition of “declared state of emergency,” provides that the statutory provision is effective during the period of time set forth in the Governor’s declaration and shall also be retroactive to the precipitating event requiring the declaration.

3. Senate Bill No. 445, LIABILITY: Provides relative to limitation of civil liability for medical personnel and healthcare providers during public health emergency.

Status: Introduced in the Senate (Mar. 31, 2020)

Person(s) Covered: See R.S. 29:771(B)(2)(c) and R.S. 37:1731.1, above.

Conduct Covered: See R.S. 29:771(B)(2)(c) and R.S. 37:1731.1, above.

Conduct Not Covered: See R.S. 29:771(B)(2)(c) and R.S. 37:1731.1, above.

Effective Date(s): March 11, 2020 (retroactive).

Summary: An Act to amend and reenact R.S. 29:771(B)(2)(c) and (d) and R.S. 37:1731.1, relative to immunity from civil liability, to provide relative to certain immunity from civil liability for medical personnel and healthcare providers during public health disasters or emergencies, and to provide definitions, terms, conditions, and requirements, and to provide for related matters.

The proposed law revises when the present law is applicable and revises the definition of “during a declared state of emergency” to include R.S. 29:760 et seq. The proposed law further provides that due to the imminent threat posed by COVID-19, as provided in Proclamation Number 25 JBE 2020 and any subsequent proclamation declaring the existence of a statewide public health emergency, that the proposed law shall be retroactive to March 11, 2020.

4. House Bill No. 778, EMERGENCY PREPAREDNESS: Provides for the limitation of liability during a declaration of a state of public health emergency

Status: Introduced into the House (Mar. 31, 2020).

Person(s) Covered: See R.S. 29:771(B)(2)(c).

Conduct Covered: See R.S. 29:771(B)(2)(c).

Conduct Not Covered: See R.S. 29:771(B)(2)(c).

Effective Date(s): During the state of public health emergency (and effective upon signature of governor or lapse of time for gubernatorial action).

Summary: An Act to amend and reenact R.S. 29:771(B)(2)(c) and (d), relative to the Louisiana Health Emergency Powers Act, to provide for a limitation on liability during a state of public health emergency, to provide for the liability of healthcare providers, to provide for the liability of private entities, and to provide for related matters.

The proposed law makes it effective only during a state of public health emergency declared, as provided in the present

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NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

law.

[1] "Health care provider" under this provision is **not** limited "to only those medical personnel rendering emergency assistance voluntarily due to the emergency in the area." *Lejeune v. Steck*, 138 So. 3d 1280, 1283 13-1017 (La. App. 5 Cir. 2014), writ denied sub nom. *Daigle v. Steck*, 149 So. 3d 800 (La. 2014).

MAINE

No Specific COVID-19 Legislation or Order.

MARYLAND

No Specific COVID-19 Legislation or Order.

MASSACHUSETTS

[Senate Bill 2630. An Act to provide liability protections for health care workers and facilities during the COVID-19 Pandemic](#)

Status: Hearing scheduled (Apr. 10, 2020).

Person(s) Covered: Health care professionals; health care facilities.

Conduct Covered: Suit and civil liability for damages alleged to have been sustained by an act or omission in the arranging for or providing of health care services in good faith.

Conduct Not Covered: Act or omission constituting gross negligence, recklessness, or conduct with an intent to harm; consumer protection actions brought by the Attorney General; false claims actions brought by or on behalf of the Commonwealth.

Effective Date(s): March 10, 2020 (declaration of COVID-19 emergency) and until terminated or rescinded.

Summary: A bill introduced by the Governor which provides that health care professionals and health care facilities, as defined by the Act, are immune from suit and civil liability for any damages alleged to have been sustained by an act or omission by the health care professional or health care facility in the course of providing health care services during the period of the COVID-19 emergency, provided that they are (1) arranging for or providing health care services pursuant to a COVID-19 emergency rule and in accordance with otherwise applicable law; (2) arranging for or providing care or treatment of the individual was impacted by the health care facility's or health care professional's decisions or activities in response to or as a result of the COVID-19 outbreak or COVID-19 emergency rules; and (3) the health care facility or health care professional is arranging for or providing health care services in good faith.

Immunity is inapplicable if the damage was caused by an act or omission constituting gross negligence, recklessness or conduct with an intent to harm, and shall not apply to consumer protection actions brought by the Attorney General, or to false claims actions brought by or on behalf of the Commonwealth.

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NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

MICHIGAN

C.L.A. 30.411, Personnel of disaster relief forces, powers, duties, rights, privileges and immunities and compensation (Michigan Emergency Management Act).

Status: Enacted (Current through P.A. 2020, No. 84, of the 2020 Regular Session, 100th Legislature).

Person(s) Covered: A person licensed to practice medicine or osteopathic medicine and surgery or a licensed hospital, whether licensed in Michigan or another state or by the federal government or a branch of the armed forces of the United States; a registered nurse, practical nurse, nursing student acting under the supervision of a licensed nurse, a dentist, a veterinarian, a pharmacist, a pharmacist intern acting under the supervision of a licensed pharmacist, and a paramedic, if licensed in Michigan or another state or by the federal government or a branch of the armed forces of the United States; a medical resident undergoing training in a licensed hospital in Michigan or another state.

Conduct Covered: Liability for injury sustained in the rendering of services during a state of disaster declared by the governor, regardless of how or under what circumstances or by what cause those injuries are sustained.

Conduct Not Covered: An act or omission that is willful or gross negligence, as defined in the Act.

Effective Date(s): N/A

Summary: M.C.L.A. 30.411(4) provides that a person that is licensed to practice medicine or osteopathic medicine and surgery, or a licensed hospital, whether licensed in Michigan or in another state, or by the federal government or a branch of the armed forces of the United States, who renders services during a state of disaster declared by the governor, and at the express or implied consent of a governmental official,

is considered an authorized disaster relief worker or facility, and is not liable for an injury sustained by a person by reason of those services, regardless of how, under what circumstances, or by what cause those injuries are sustained. The same immunity extends to the following individuals: a registered nurse; a practical nurse; a nursing student acting under the supervision of a licensed nurse; a dentist; a veterinarian; a pharmacist; a pharmacist intern acting under the supervision of a licensed pharmacist; a paramedic; and a medical resident undergoing training in a licensed hospital in Michigan or another state.

Immunity is inapplicable in the event of an act or omission that is willful or gross negligence. Gross negligence is defined within the subsection (9) to mean conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results. If a civil action for malpractice is filed alleging an act or omission that is willful or gross negligence resulting in injuries, the services rendered are to be judged according to the standards required of persons licensed in the State.

2. Executive Order No. 2020-30, Temporary relief from certain restrictions and requirements governing the provision of medical services.

Status: Issued (March 30, 2020).

Person(s) Covered: Licensed health care professional or designated health care facility providing medical services in support of the state's response to the COVID-19 pandemic.

(CONTINUED)

NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

Conduct Covered: Liability for an injury sustained.

Conduct Not Covered: Gross negligence.

Effective Date(s): March 30, 2020 and continuing until the end of the declared emergency.

Summary: Under Executive Order 2020-30, the Governor of Michigan provided that consistent with MCL 30.411(4), any licensed health care professional or designated health care facility that provides medical services in support of the state's response to the COVID-19 pandemic is not liable for an injury sustained by a person by reason of those services, regardless of how, under what circumstances, or by what cause those injuries are sustained.

Immunity from liability is inapplicable where it is established that injury or death was caused by the gross negligence, as defined in MCL 30.411(9), of the health care professional or designated health care facility.

3. Executive Order No. 2020-39. Temporary relief from certain restrictions and requirements governing the provision of emergency medical services

Status: Issued (Apr. 8, 2020).

Person(s) Covered: Emergency medical services personnel or life support agency.

Conduct Covered: Liability for an injury sustained.

Conduct Not Covered: Gross negligence.

Effective Date(s): April 8, 2020 until the end of the declared state of emergency and disaster.

Summary: Under Executive Order 2020-39, the Governor of Michigan provided that consistent with section 11(4) of the Emergency Management Act, 1976 PA 390, as amended MCL 30.411(4), an emergency medical services personnel or life support agency that provides medical services in support of the state's response to the COVID-19 pandemic is not liable for an injury sustained by a person by reason of those services, regardless of how or under what circumstances or by what cause those injuries are sustained.

Immunity from liability is inapplicable where it is established that injury or death was caused by the gross negligence, as defined in MCL 30.411(9) of the emergency medical services personnel or life support agency.

MINNESOTA

No Specific COVID-19 Legislation or Order.

MISSISSIPPI

Executive Order No. 1471.

Status: Issued (April 10, 2020).

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NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

Person(s) Covered: Healthcare professional; healthcare facility.

Conduct Covered: Suit for civil liability for any injury or death alleged to have been sustained because of acts or omissions while providing health care services.

Conduct Not Covered: Acts or omissions that constitute a crime, fraud, malice, reckless disregard, willful misconduct, or would otherwise constitute a false claim under federal law.

Effective Date(s): April 10, 2020 until 11:59 p.m. on May 15, 2020, unless it is modified, amended, or superseded.

Summary: The Executive Order, pursuant to the Mississippi Emergency Management Act, provides that any Healthcare Professional or Healthcare Facility, as defined in the Executive Order, is immune from suit for civil liability for any injury or death alleged to have been sustained because of the Healthcare Professional or Facility's acts or omissions while providing healthcare services, including but not limited to screening, assessing, diagnosing, and treating patients for COVID-19, or otherwise acting in support of the State's COVID-19 response. Acts or omissions undertaken because of a lack of resources attributable to the COVID-19 pandemic that render the Healthcare Professional or Facility unable to provide the level or manner of care that would otherwise be required are included in the immunity.

Immunity does not extend to acts or omissions that constitute a crime, fraud, malice, reckless disregard, willful misconduct, or would otherwise constitute a false claim pursuant to 31 U.S.C. §3729 *et seq.*

"Healthcare Facility" includes hospitals, clinics, nursing homes, mental health centers, and field hospitals, and any other facilities designated for temporary use for the purpose of providing healthcare services in support of the State's COVID-19 response. "Healthcare Professional" includes any individual licensed, registered, permitted, or certified in any state, whether paid or unpaid, who is providing health care services in response to the COVID-19 outbreak at a Healthcare Facility, or working for the State in response to its 2020 Disaster Proclamation.

MISSOURI

No Specific COVID-19 Legislation or Order.

MONTANA

No Specific COVID-19 Legislation or Order.

NEBRASKA

No Specific COVID-19 Legislation or Order.

NEVADA

No Specific COVID-19 Legislation or Order.

(CONTINUED)

NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

NEW HAMPSHIRE

No Specific COVID-19 Legislation or Order.

NEW JERSEY

J.S.A. 26:13-19. Immunity from liability and applicable definitions.

Status: Enacted (Current with laws through L.2020, c.17).

Person(s) Covered: A person or private entity (including a health care provider) and the employees of the entity.

Conduct Covered: Liability for injury caused by an act or omission in connection with a public health emergency, or preparatory activities.

Conduct Not Covered: Conduct outside the scope of the authority granted by the act; conduct that constitutes a crime, actual fraud, actual malice, gross negligence or willful misconduct; acts or omissions that caused or contributed to the public health emergency.

Effective Date(s): September 14, 2005.

Summary: N.J.S.A. 26:13-19(c)(2) provides that a person or private entity, and the employees of the entity, will not be liable for an injury caused by an act or omission in connection with a public health emergency, or preparatory activities, provided that the action is undertaken pursuant to the exercise of the authority provided under the act.

Immunity is inapplicable for an injury that results from an act that is outside the scope of the authority granted by the act or for conduct that constitutes a crime, actual fraud, actual malice, gross negligence or willful misconduct.

“Private entity,” as used in subsection (c), includes but is not limited to a health care provider.

2. Executive Order No. 122.

Status: Issued (April 1, 2020).

Person(s) Covered: Individuals practicing a healthcare profession or occupation; individuals granted temporary authority to practice a healthcare profession or occupation; healthcare facilities; modular field treatment facilities; any other site designated by the Commissioner of the Department of Health for temporary use for the purpose of providing essential services.

Conduct Covered: Civil liability for any damages alleged to have been sustained as a result of the individual's acts or omissions undertaken in good faith while providing health care services or services in support of the State's COVID-19 response.

Conduct Not Covered: Acts or omissions constituting a crime, actual fraud, actual malice, gross negligence or willful misconduct.

(CONTINUED)

NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

Effective Date(s): At any time during the State of Emergency (retroactively applied).

Summary: The Executive Order extends the immunity granted in N.J.S.A. 26:13-19 to healthcare providers and provides immunity from civil liability for individuals practicing a healthcare profession or occupation in New Jersey, individuals granted temporary authority to practice a healthcare profession or occupation in New Jersey, healthcare facilities, modular field treatment facilities, any other site designated by the Commissioner of the Department of Health for temporary use. Immunity for civil liability is available for the purpose of providing essential services for any damages alleged to have been sustained as a result of an act or omission undertaken in good faith in the course of providing healthcare services or services in support of the State's COVID-19 response, whether or not within the scope of their practice and whether or not immunity is otherwise available under current law.

Immunity from civil liability is inapplicable to the extent that acts or omissions constitute a crime, actual fraud, actual malice, gross negligence or willful misconduct.

"Healthcare facility" has the meaning provided by N.J.S.A. 26:13-2, which includes institutions, buildings or agencies operated and designed to provide health services, medical or dental treatment or nursing, rehabilitative, or preventative care to any person, and as more fully set forth in the definition.

3. 2020 NJ Senate Bill No. 2333, Provides civil and criminal immunity to certain health care professionals and health care facilities during public health emergency and state of emergency; facilitates issuance of certain temporary licenses and certifications during public health emergency.

Status: Passed Assembly (Both Houses) (April 13, 2020).

Person(s) Covered: Health care professional; health care facility or health care system that owns or operates more than one health care facility.

Conduct Covered: Civil damages for injury or death alleged to have been sustained as a result of an act or omission undertaken in good faith. As to a health care facility or a health care system that owns or operates more than one health care facility, criminal or civil liability for damages for injury or death alleged to have been sustained as a result of an act or omission in connection with allocation of mechanical ventilators or other scarce medical resources, subject to allocation plans.

Conduct Not Covered: Acts or omissions constituting a crime, actual fraud, actual malice, gross negligence, recklessness, or willful misconduct.

Effective Date(s): March 9, 2020 (retroactive).

Summary: Under subsections (1)(c) and (d) of the Act, as adopted, a health care professional, a health care facility, or a health care system that owns or operates more than one health care facility would not be liable for civil damages for injury or death alleged to have been sustained as a result of an act or omission in the course of providing medical services in support of the State's response to the outbreak of coronavirus disease during the public health emergency and state of emergency declared by the Governor in Executive Order 103 of 2020.

Immunity would also include any act or omission undertaken in good faith by a health care professional or healthcare facility or health care system to support efforts to treat COVID-19 patients and to prevent the spread of COVID-19 during the public health emergency and state of emergency declared by the Governor in Executive Order 103 of 2020, including but not limited to engaging in telemedicine or telehealth, and diagnosing or treating patients outside the normal

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NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

scope of the health care professional's license or practice. The immunity granted pursuant to this provision would not apply to acts or omissions constituting a crime, actual fraud, actual malice, gross negligence, recklessness, or willful misconduct, and shall be retroactive to March 9, 2020.

The Act provides that a health care facility or a health care system that owns or operates more than one health care facility would not be criminally or civilly liable for damages for injury or death alleged to have been sustained as a result of an act or omission by the facility or system or one or more of the facility's or system's agents, officers, employees, servants, representatives or volunteers during the public health emergency and state of emergency declared by the Governor in Executive Order 103 of 2020 in connection with the allocation of mechanical ventilators or other scarce medical resources, if the health care facility or system adopts and adheres to a scarce critical resource allocation policy that at a minimum incorporates the core principles identified by the Commissioner of Health in an executive directive or administrative order, and the health care facility's or system's agents, officers, employees, servants, representatives and volunteers would not be civilly or criminally liable for an injury caused by any act or omission pursuant to the bill during the public health emergency and state of emergency declared by the Governor in Executive Order 103 of 2020 pursuant to, and consistent with, such policy.

NEW MEXICO

No Specific COVID-19 Legislation or Order

NEW YORK

[Executive Order 202: Declaring a Disaster Emergency in the State of New York \(Mar. 7, 2020\):](#)
[Executive Order 202.10: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency \(March 23, 2020\).](#)

Status: Issued (March 23, 2020).

Conduct Covered: Civil liability for injury or death alleged to have been sustained directly as a result of an act or omission by person(s) covered.

Person(s) Covered: Physicians, physician assistants; specialist assistants; nurse practitioners; licensed registered professional nurses; licensed practical nurses.

Conduct Not Covered: Gross negligence.

Effective Date(s): March 23, 2020 – April 22, 2020.

Summary: Executive Order 202.10 provides in part that Subdivision (2) of section 6527, Section 6545, and Subdivision (1) of Section 6909 of the Education Law are modified and/or suspended to the extent necessary to provide that all physicians, physician assistants, specialist assistants, nurse practitioners, licensed registered professional nurses and licensed practical nurses are immune from civil liability for any injury or death alleged to have been sustained directly as a result of an act or omission by such medical professional in the course of providing medical services in support of the State's response to the COVID-19 outbreak. Immunity does not extend to medical professionals where it is established that such injury or death was caused by the gross negligence of the medical professional. As such, there is no immunity from suit.

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NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

Per Executive Order 202.5 and 202.10, the list of medical professionals authorized to provide medical services in New York State continues to grow, including but not limited to those authorized to practice in the United States but not licensed in the State of New York.

2. Emergency or Disaster Treatment Protection Act, N.Y. Public Health Law, Article 30-D, §§ 3080 *et seq.*

Status: Enacted.

Person(s) Covered: Health care facilities; health care professionals; volunteer organizations (all as defined by statute and by COVID-19 emergency rules).

Conduct Covered: Civil or criminal liability for 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 service in good faith.

Conduct Not Covered: Willful or intentional criminal misconduct; gross negligence; reckless misconduct, or intentional infliction of harm by the health care facility or health care professional, which do not include (for health care professionals or facilities) acts, omissions or decisions resulting from resource or staffing shortages.

Effective Date(s): March 7, 2020 (retroactive to Executive Order 202) to the expiration date of the COVID-19 emergency declaration.

Summary: Pursuant to the newly enacted Article 30-D of New York's Public Health Law, New York is providing broad-sweeping immunity from civil or criminal liability for harm or damages sustained as a result of COVID-19. Pursuant to Article 30-D, any health care facility or health care professional, as defined, will have immunity from civil or criminal liability for any harm or damage, as defined, alleged to have been sustained as a result of an act or omission in the course of arranging for or providing health care services, as defined, so long as (a) the health care facility or professional is arranging for or providing health care services pursuant to a COVID-19 emergency rule, as defined, or otherwise in accordance with applicable law, (b) the act or omission occurs in the course of providing health care services and treatment of individual is impacted by the health care facility or professional's decisions or activities in response to or as a result of the COVID-19 outbreak and in support of the state's directives; and (c) the health care facility or professional is arranging for or providing health care services in good faith.

Additionally, volunteer organizations, as defined, are immune from civil or criminal liability for harm or damages irrespective of the cause of the harm or damage 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.

The immunity for health care professionals, facilities, and volunteer organizations will not apply if the harm or damage is caused by an act or omission constituting willful or intentional criminal conduct, gross negligence, reckless misconduct, or intentional infliction of harm by the health care facility or professional providing health care services or by the volunteer organization. However, acts, omissions or decisions of health care professionals or facilities resulting from resource or staffing shortages are not considered willful or intentional criminal misconduct, gross negligence, reckless misconduct, or intentional infliction of harm.

NORTH CAROLINA

No Specific COVID-19 Legislation or Order.

(CONTINUED)

NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

NORTH DAKOTA

No Specific COVID-19 Legislation or Order.

OHIO

2019 Ohio House Bill No. 606. To grant civil immunity to a person who provides services for essential businesses and operations for injury, death, or loss that was caused by the transmission of COVID-19 during the period of emergency declared by Executive Order 2020-01D, issued on March 9, 2020, and to declare an emergency.

Status: Introduced (April 10, 2020).

Person(s) Covered: A person providing services for essential business and operations.

Conduct Covered: Civil liability for any injury, death, or loss to person or property that was caused by the transmission of COVID-19.

Conduct Not Covered: Acts manifestly outside the scope of the person's responsibilities; with malicious purpose; in bad faith; or in a wanton or reckless manner.

Effective Date(s): Date of enactment.

Summary: The bill seeks to grant civil immunity to a person who provides services for essential businesses and operations for injury, death, or loss that was caused by the transmission of COVID-19 during the period of emergency declared by Executive Order 2020-01D, issued on March 9, 2020, and to declare an emergency.

Immunity does not extend to a person who acts manifestly outside the scope of the person's responsibilities, with malicious purpose, in bad faith, or in a wanton or reckless manner.

The bill does not eliminate, limit or reduce any immunity from civil liability conferred upon a person who provides services to essential businesses and operations by any other provision of the Revised Code or case law.

"Essential businesses and operations" has the meaning given in the Director of Health's order under section 3701.13 of the Revised Code "Re: Director's Order that All Persons Stay at Home Unless Engaged in Essential Work or Activity" issued on March 23, 2020.

OKLAHOMA

No Specific COVID-19 Legislation or Order.

OREGON

No Specific COVID-19 Legislation or Order.

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NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

PENNSYLVANIA

No Specific COVID-19 Legislation or Order.

RHODE ISLAND

No Specific COVID-19 Legislation or Order.

SOUTH CAROLINA

No Specific COVID-19 Legislation or Order.

SOUTH DAKOTA

No Specific COVID-19 Legislation or Order.

TENNESSEE

No Specific COVID-19 Legislation or Order.

TEXAS

No Specific COVID-19 Legislation or Order.

UTAH

No Specific COVID-19 Legislation or Order.

VERMONT

No Specific COVID-19 Legislation or Order.

VIRGINIA

No Specific COVID-19 Legislation or Order.

WASHINGTON

(CONTINUED)

NATIONAL SURVEY OF COVID-19 MEDICAL MALPRACTICE IMMUNITY LEGISLATION (AS OF APRIL 15, 2020)

No Specific COVID-19 Legislation or Order.

WEST VIRGINIA

No Specific COVID-19 Legislation or Order.

WISCONSIN

No Specific COVID-19 Legislation or Order.

WYOMING

No Specific COVID-19 Legislation or Order.

TAGGED: Medical Malpractice, COVID-19, CARES Act, Department of Health and Services, Emergency Management Assistance Compact, Health Care Workforce Protection Act of 2020, Facilitating Innovation to Fight Coronavirus Act, D.C. Code § 7-2304.01, D.C. Act 23-286