



COVID-19 Pandemic State Government Activity

Below is a summary of activities undertaken or announced by State Executives, Departments of Insurance, and Legislatures relating to the COVID-19 pandemic that may be of special interest to Medical Professional Liability (MPL) Association members and their insureds:

Table with 3 columns: State, Executive Orders, Statutes/Bills, Insurance Dept. Issuances. Rows include AL and AR with detailed descriptions of legislative and executive actions.

	<p>entity, or a non-profit entity. Emergency responders will <u>not</u> receive immunity if they engage in acts or omissions that cause injury or death while acting outside the scope of their practice (excluding cross training) or engaging in gross negligence, willful misconduct, or bad faith. The term, <i>emergency responder</i>, includes physicians, physician assistants, specialist assistants, nurse practitioners, licensed registered nurses, and licensed practical nurses, for the purposes of this order. [We are working on confirming which entities (i.e., facilities) are immune from civil liability.] The order suspends statutory limits on working hours for the aforementioned medical professionals to allow healthcare facilities affected by the disaster emergency to maintain adequate staffing and otherwise respond to the COVID-19 outbreak. The order also suspends AR code to allow emergency medical treatment protocol development or modification to occur solely with the approval of the Secretary of the Arkansas Department of Health. (4/13/20)</p>
AZ	<p><u>E.O. 2020-63</u> extends civil liability protections afforded to healthcare providers and facilities under <u>E.O. 2020-27</u> and <u>E.O. 2020-42</u> through March 31, 2021. The order provides civil liability immunity to Arizona health professionals, volunteer health professionals, Arizona Emergency Medical Care Technicians, Arizona healthcare institutions, modular field treatment facilities, and any other approved temporary medical sites for any acts or omissions undertaken in good faith while providing healthcare services in support of the State’s public health emergency declaration for COVID-19. The civil liability immunity provided by this order also applies to triage decisions made in the course of providing medical services based on good faith reliance of mandatory or voluntary state-approved protocols under the public health declaration for COVID-19. Civil liability immunity for healthcare facilities applies to the acts or omissions undertaken in good faith by one or more of their agents, officers, employees, representatives, or volunteers while providing healthcare services in support of the State’s public health emergency declaration for COVID-19. (12/31/20)</p>
CA	<p><u>Bulletin 2020-4</u> orders property and casualty (P/C) insurers, including medical professional liability (MPL) insurers, to make a partial premium refund for the month of May to all adversely impacted California policyholders. Same requirements and timeline apply as those in Bulletin 2020-3, below. (5/15/20)</p> <p><u>Bulletin 2020-3</u> orders property and casualty (P/C) insurers, including medical professional liability (MPL) insurers, to make a partial premium refund for the months of March and April to all adversely impacted California policyholders no later than 120 days after this bulletin is issued. Insurers have flexibility in determining how best to issue refunds, including providing a premium credit, premium reduction, and premium refund. A premium refund doesn’t require prior approval from the DOI if an insurer follows certain outlined methods, such as using an average percentage based on estimated change in risk exposure. Insurers have 60 days to submit a report to DOI documenting compliance. This bulletin follows a previous <u>notice</u> in which the DOI requested that insurers grant their insureds a 60-day grace period to make premium payments. (4/13/20)</p> <p><u>Government Code §8659</u> provides civil liability immunity to medical professionals (whether licensed in this state or any other state) and medical facilities who render services during any state of war emergency, a state of emergency, or a local emergency at the express or implied request of any responsible state or local official or agency, regardless of how or under what circumstances or by what cause those injuries are sustained. Exception for a willful act or omission. (1/1/11)</p>

<p><b>CT</b></p>	<p><b><u>E.O. No. 10A</u></b> partially renews civil liability immunity provided under <b><u>E.O. No. 7V</u></b> (below); Immunity applies only to healthcare professionals which is defined as an individual who is licensed, registered, permitted or certified in any state in the United States to provide healthcare services and any retired professional, professional with an inactive license, or volunteer approved by the Public Health Commissioner or designee. No longer protects healthcare facilities, including hospitals and nursing homes. Effective March 1, 2021 through the duration of the current public health and civil preparedness emergencies, unless modified or terminated by the Governor. <b>(2/8/21)</b></p> <p><b><u>E.O. No. 7V</u></b> renews <b><u>E.O. No. 7U</u></b> ; Order provides civil liability immunity to healthcare professionals and facilities for any injury or death alleged to have been sustained because of the individual's or facility's acts or omissions undertaken in good faith while providing health care services in support of the state's COVID-19 response. Applies to acts or omissions stemming from a lack of resources that renders the professional or facility unable to provide the level or manner of care that otherwise would have been required in the absence of the COVID-19 pandemic and that resulted in the damages at issue. Exception for acts or omissions that constitute a crime, fraud, malice, gross negligence, willful misconduct, or would otherwise constitute a false claim or prohibited act. Effective through duration of public health and civil preparedness emergency unless modified or terminated by the Governor. <b>(4/7/20)</b></p> <p><b><u>E.O. No. 7S</u></b> requires all insurers domiciled or conducting business in Connecticut to issue a 60-day grace period for premium payments, policy cancellations, and non-renewals of insurance policies beginning Wednesday, April 1, 2020. <b>(4/1/20)</b></p>
<p><b>FL</b></p>	<p><b><u>Ch. 2021-1 (SB 72)</u></b> provides COVID-19 liability protections to a broad category of entities, including healthcare providers and facilities. The healthcare liability section provides the exclusive cause of action for COVID-19 claims against a healthcare provider and/or facility. It states that a COVID-19 related complaint against a health provider and/or facility must be pled with particularity by alleging facts in sufficient detail to support each element of the claim, though an affidavit of a physician is not required. It requires the plaintiff to prove by the greater weight of the evidence that the health care provider was grossly negligent or engaged in intentional misconduct in certain scenarios. The law provides affirmative defenses to healthcare providers and facilities that comply with government health standards. Providers and facilities can demonstrate that compliance with government health standards were not possible due to a shortage of supplies, materials, equipment, or personnel, inadequate time to implement the standards, and/or conflict between standards. Action must be commenced within 1 year after the incident that leads to the action, or 1 year from the date of enactment for incidents pre-dating enactment. It applies to causes of action that accrue within 1 year after the effective date of this act and applies retroactively. It does not apply in a civil action against a particular named defendant which is commenced before the effective date of this act. <b>(3/29/21)</b></p>
<p><b>GA</b></p>	<p><b><u>Act 588</u></b> shields healthcare facilities, healthcare providers, and businesses from COVID-19 liability claims, except for acts or omissions resulting from gross negligence, willful and wanton misconduct, reckless infliction of harm, or intentional infliction of harm. These exceptions require a greater showing of provider fault than a simple negligence claim and are more difficult to prove. The law applies to claims stemming from injury or death arising from the transmission, infection, exposure, or potential exposure of COVID-19, and provides legal protection to a claimant at any healthcare facility or on the premises of any entity, individual, or healthcare provider. It also applies to acts or omissions by a healthcare facility or provider in arranging for or providing healthcare services or</p>

medical care to the claimant for COVID-19 or where the response to COVID-19 reasonably interfered with the arranging for or providing of healthcare services or medical care at issue to the claimant. Finally, the law applies to injury or death related to the manufacturing, labeling, donation, or distribution of personal protective equipment (PPE) or sanitizer during the public health state of emergency for COVID-19. In addition to the liability protections, the law provides a rebuttable presumption for assumption of risk by a claimant when an individual or entity of certain premises posts a sign at the point of entry using at least one-inch Arial font placed apart from any other text. The law shall go into effect once signed by the Governor or on August 7, 2020, whichever occurs first, and will apply to causes of action accruing until July 14, 2021. (8/5/20)

**E.O. 05.12.20.02** extends civil liability immunity provided to “auxiliary emergency management workers” under **OCGA 38-3-35** to healthcare facilities and certain healthcare professionals who were not previously protected through executive action, including nurses, physician assistants, dialysis technicians, and acupuncturists. Exceptions for willful misconduct, gross negligence, or bad faith apply. The order explicitly prohibits civil liability immunity from applying to healthcare professionals who work in abortion facilities. While the original executive order expired on May 31<sup>st</sup>, Governor Kemp extended all civil liability protections along with the public health emergency via through midnight on July 12<sup>th</sup>. (5/12/20)

**E.O. 04.14.20.01** extends civil liability immunity provided to “auxiliary emergency management workers” under **OCGA 38-3-35** to employees, staff, and contractors of healthcare institutions and medical facilities during the Public Health State of Emergency, unless willful misconduct, gross negligence, or bad faith can be demonstrated. Additionally, the services provided by the healthcare institutions and facilities would be afforded the same protections. For the purposes of this order, a healthcare institution or medical facility includes hospitals (including general hospitals, destination cancer hospitals, and specialty hospitals), nursing homes, assisted living communities, personal care homes, ambulatory surgical treatment centers, fixed or mobile specimen collection centers or health testing facilities, birthing centers, traumatic brain injury treatment centers, free standing imaging centers, institutional infirmaries, public health centers, and diagnostic and treatment centers. (4/14/20)

**O.C.G.A. Section 38-3-35** provides civil liability immunity for personal injury or property damage sustained by any person appointed or acting as a volunteer emergency management worker or member of any agency engaged in emergency management activity. Exception for personal injury or property damage resulting from cases of willful misconduct, gross negligence, or bad faith. (2010)

HI

**E.O. No. 20-05** directs all healthcare facilities, healthcare professionals, and healthcare volunteers to render assistance in support of the State’s response to the disaster recognized by the COVID-19 Emergency Proclamations. The order also provides civil liability immunity to healthcare facilities, healthcare professionals, and healthcare volunteers for any death or injury to persons, or property damage alleged to have been caused by any act or omission resulting from the rendering of healthcare services in response to the State’s response to the COVID-19 outbreak. Immunity covers death, injury, and property damage stemming from both COVID-19-related care and triage care (i.e., cancellation or postponement of elective surgeries and procedures). Exception for death or injury to persons or property damage caused by willful misconduct, gross negligence, or recklessness of the healthcare facility. (4/16/20)

IA	<p><a href="#">I.C.A. § 686D</a> provides immunity from liability for the act or omission of any healthcare professional or facility in support of the state’s response to COVID-19, including the following of any governmental directives. The bill was signed into law by Governor Reynolds. <b>(6/18/20)</b></p>
ID	<p><a href="#">H.B. 149</a> extends the sunset of COVID-19 liability protections enacted last year, <a href="#">HB 6</a>, to July 1, 2022. <b>(3/19/21)</b></p> <p><a href="#">H.B. 6</a> provides civil liability immunity to covered entities (including healthcare professionals and facilities) for damages or injuries resulting from exposure to COVID-19, except in cases involving intentional torts and willful and reckless misconduct. The law does not require a declaration of emergency by the Governor, nor does it require good faith actions. The law went into effect on August 27<sup>th</sup> and will sunset on 7/1/2021. <b>(8/27/20)</b></p>
IL	<p><a href="#">Executive Order 2020-19</a> provides civil liability immunity to medical professionals, medical volunteers, and healthcare facilities for any injury or death alleged to have been caused by any act or omission by the covered entity in rendering healthcare services in response to the COVID-19 outbreak. Exemptions for gross negligence or willful misconduct. <b>(4/1/20)</b></p>
IN	<p><a href="#">S.B. 1</a> provides civil liability immunity for damages resulting from exposure of an individual to COVID-19 on the premises owned or operated by a person, on any premises on which the person or an employee or agent of the person provided property or services to the individual, or during an activity managed, organized, or sponsored by the person. The law implicitly applies to healthcare providers and entities, including nursing homes. SB 1 provides civil liability immunity for harm that results from the design, manufacture, labeling, sale, distribution, or donation of a COVID-19 protective product (i.e., COVID-19 tests, COVID-19 medications, PPP, medical devices, etc.). The enactment does not apply to acts or omissions constituting gross negligence or willful or wanton misconduct (including fraud or intentionally tortious acts). <b>(2/18/21)</b></p> <p><a href="#">IC 34-30-13.5-1</a> provides civil liability immunity to health professionals for any act or omission relating to the provision of healthcare services in response to an event that is declared a disaster emergency regardless of whether the provision of healthcare services occurred before or after the declaration of a disaster emergency. Protection is limited to healthcare services provided within the medical professional’s scope of practice at a location where healthcare services are provided. <b>(2006)</b></p> <p><a href="#">DOI Bulletin 252</a> requests all insurance companies and HMOs in Indiana to institute a moratorium on cancellations and non-renewals of any insurance policy in effect for a policyholder in Indiana for a 60-day period for any premium payment due from March 19, 2020 to May 18, 2020. It also suspends requirements for healthcare providers participating in the Indiana Patient’s Compensation Fund (PCF) to hold an Indiana license, clarifies that out-of-state licensed providers and those coming out of retirement to serve must be enrolled with DOI to participate in the PCF. PCF surcharge payments are extended from 30-days to 90-days. <b>(3/26/20)</b></p>

<p><b>KS</b></p>	<p><a href="#">H.B. 2016</a> provides civil liability immunity to healthcare providers (including facilities), businesses, and product manufacturers that respond to the COVID-19 pandemic. The healthcare portion of the law (Sec. 10) provides civil liability immunity for damages, administrative fines, or penalties for acts, omissions, healthcare decisions or the rendering of or failure to render healthcare services, including services that are altered, delayed, or withheld, as a direct response to the declared COVID-19 emergency. Civil liability immunity does not apply when it is established that the act, omission, or healthcare decision constituted gross negligence or willful, wanton or reckless conduct, nor does it apply to healthcare services unrelated to COVID-19 that have not been altered, delayed, or withheld as a direct response to the COVID-19 public health emergency. Finally, the law’s civil liability protections specifically excluded nursing homes which instead will receive an affirmative defense in a civil action for damages, administrative fines, or penalties for a COVID-19 claim if such facility acted pursuant to and in substantial compliance with public health directives and met certain criteria (Sec. 13). Both sections would apply retroactively to any cause of action accruing on or after March 12, 2020, and prior to the termination of the COVID-19 state of emergency. <b>(6/8/20)</b></p> <p><a href="#">E.O. 20-26</a> provides civil liability immunity, pursuant to <a href="#">K.S.A. 48-915</a>, to healthcare professionals and facilities that make clinical and triage decisions and render assistance, testing, care, or advice in the care of patients reasonably suspected or confirmed to be infected with COVID-19, rendered in response to any Kansas Department of Emergency Management mission relate to the COVID-19 outbreak and the proclamation issued declaring a state of disaster emergency. Exception for any adverse event or injury caused by the willful misconduct, gross negligence, recklessness, or bad faith of a healthcare provider and/or facility. This order doesn’t limit or change protections from liability under state law, nor does it extend to medical treatment or procedures performed in the ordinary or customary course of practice. The order also suspends certain licensure, scope of practice/supervision, and maintenance of certification requirements pertaining to certain healthcare professionals, including physician assistants, advanced practice registered nurses, registered nurses, licensed practical nurses, licensed pharmacists, and medical volunteers. <b>(4/22/20)</b></p> <p><a href="#">K.S.A. § 65-2891</a> provides limited civil liability immunity to healthcare professionals for acts or omissions stemming from emergency care or assistance provided to an injured person. Exception for gross negligence and willful or wanton acts or omission. <b>(2012)</b></p>
<p><b>KY</b></p>	<p><a href="#">S.B. 150</a> provides a defense to civil liability for ordinary negligence to a COVID-19 patient during the state of emergency for any personal injury resulting from care or treatment rendered in good faith, or from any act or failure to act in providing or arranging further medical treatment. This protection applies so long as the healthcare provider acts as an ordinary, reasonable, and prudent healthcare provider who would have acted under the same or similar circumstances. This protection includes (1) prescribing or dispensing medicines for off-label use to attempt to combat COVID-19 in accordance with the federal or state Right to Try Act laws; (2) providing health care services, upon the request of health care facilities or public health entities, that are outside of the provider’s professional scope of practice; or (3) utilizing equipment or supplies outside of the product’s normal use for medical practice and the provision of health care services. <b>(3/30/20)</b></p> <p>The Department of Insurance issued a <a href="#">bulletin</a> recommending that medical professionals inform their MPL insurer if they decide to deliver care outside their scope of practice. Captives and self-</p>

	insured entities will be permitted to let their members practice outside their normal practice setting without being deemed to be unlicensed insurance providers. <b>(4/3/20)</b>
<b>LA</b>	<a href="#">LSA R.S. 29:771(B)(2)(c)</a> provides civil liability immunity to any healthcare provider who causes death or injury to any person, or damage to any property, during a declared public health emergency. Excepts gross negligence or willful misconduct. <b>(2012)</b>
<b>MA</b>	<p><a href="#">Chapter 64 of the Acts of 2020</a> provides civil liability immunity to healthcare professionals and facilities for any damages alleged to have been sustained by an act or omission in the course of providing healthcare services in good faith during the COVID-19 emergency and pursuant to an emergency rule. Exception for acts or omissions constituting gross negligence, recklessness or conduct with an intent to harm or to discriminate based on race, ethnicity, national origin, religion, disability, sexual orientation, or gender identity by a healthcare facility or professional providing healthcare services. Immunity also doesn't apply to consumer protection actions brought by the Attorney General, or to false claims actions brought by or on behalf of the Commonwealth. Also provides civil immunity to a volunteer organization for damages arising from the use of the organization's facility to render medical treatment related to the COVID-19 emergency, unless the damages resulted from the organization's gross negligence, recklessness, or conduct with an intent to harm. <b>(4/17/20)</b></p> <p><a href="#">Bulletin 2020-08</a> asks all MPL insurance carriers, surplus lines carriers, and risk retention groups offering MPL coverage in the Commonwealth to review their existing coverage and/or coverage forms to ensure that such coverage provides flexibility where needed and/or to file or add endorsements to their existing policies to ensure that existing coverage will apply to healthcare professionals who are acting within the scope of their professional license when they respond to COVID-19 public health crisis, whether within Massachusetts or in another state. References executive order issued by Governor Baker to ensure adequate public access to medical care. <b>(3/27/20)</b></p>
<b>MD</b>	<a href="#">Code, Public Safety § 14-3A-06</a> provides civil or criminal liability immunity to a healthcare provider who acts in good faith and under a catastrophic health emergency proclamation. <b>(2014)</b>
<b>MI</b>	<p>Under <a href="#">H.B. 6159</a>, a health care provider or facility that provides health care services in support of the State's response to the COVID-19 pandemic would not be liable for an injury, including death, sustained by an individual by reason of those services, regardless of how, under what circumstances, or by what cause those injuries were sustained. The protection does not apply to providers and facilities that render health care services that constitute willful misconduct, gross negligence, intentional and willful criminal misconduct, or intentional infliction of harm, nor does the protection apply to claims covered by the Worker's Disability Compensation Act. The liability protection provided by this Act applies retroactively to causes of action arising between March 9, 2020 and July 14, 2020. <b>(10/16/20)</b></p> <p><a href="#">S.B. 899</a> was <b>vetoed</b> by Governor Whitmer on August 10, 2020. The bill would have provided civil liability immunity to health care providers and facilities that render health care services in support of the state's response to the COVID-19 pandemic from March 10, 2020 to January 1, 2021, except in cases involving willful misconduct and gross negligence. It would have also amended the current code to add health facilities to the list of entities that receives protection, clarified the individuals who get protection (by adding the term "health care providers" and then defining it), and linked the protections to "public health emergencies" in addition to "disasters" which was included under the</p>

current statute. Finally, the bill would have removed the previous requirement that protections be tied to medical services provided at the request of a state official. **(Vetoed on 8/10/20)**

**E.O. 2020-61 (COVID-19)** was **rescinded** by Governor Whitmer on July 13, 2020. The order clarified that state law (see below) providing civil liability immunity to healthcare professionals or designated healthcare facilities that provide medical services in support of the state's response to the COVID-19 pandemic are 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. Exception for injury or death caused by gross negligence. **(Issued on 4/26/20; Rescinded on 7/13/20 by E.O. 2020-150)**

**MCL 30.411(4)** provides civil liability immunity to physicians and licensed hospitals who render services during a declared state disaster and at the express or implied request of a state official or agency or county or local coordinator or executive body, regardless of how or under what circumstances or by what cause those injuries are sustained. Exception for acts or omissions that are willful or gross negligence. If an exception is invoked, standard of care required of persons licensed in the state shall apply. **(2005)**

**MS**

**S.B. 3049** protects businesses, religious organizations, non-profit groups, and other entities from civil litigation related to COVID-19 if they demonstrate a "good faith" effort to follow public health guidelines. The law also provides civil liability immunity to healthcare professionals and facilities for any injury or death resulting from screening, assessing, diagnosing, or treating patients in relation to the COVID-19 state of emergency, as well as those resulting from unrelated acts or omissions that are intended to support the state's response to COVID-19 (i.e, delay or cancelation of non-essential care). The measure also provides product liability protection to manufacturers for the designing, manufacturing, labeling, selling, distributing, or donating of personal protective equipment (PPE), medical devices/equipment/supplies, medications, diagnostic tests, and cleaning/disinfecting supplies in response to COVID-19. It also sets a 2-year statute of limitations for COVID-19 related cases, except for claims against a government entity which is governed by the MS Tort Claims Act. Finally, the law includes exceptions for cases involving actual malice or willful, intentional misconduct, applies retroactively on March 14, 2020, and expires one year after the end of the COVID-19 state of emergency. **(7/8/20)**

**E.O. 1471** provides civil liability immunity to healthcare professionals and facilities for any injury or death alleged to have been sustained because of acts or omissions while providing healthcare services including, but not limited to, screening, assessing, diagnosing, treating patients for COVID-19. Civil liability immunity also applies to acts or omissions undertaken because of a lack of resources attributable to the COVID-19 pandemic that renders the healthcare professional or facility unable to provide the level or manner of care that otherwise would have been required in the absence of the COVID-19 pandemic. Exception for acts or omissions that constitute a crime, fraud, malice, reckless disregard, willful misconduct, or would otherwise constitute a false claim under 31 U.S.C. §3729 *et seq.* **(4/10/20)**

**MT**

**S.B. 65** states that healthcare providers and facilities are not liable for causing or contributing, directly or indirectly, to the death or injury of an individual as a result of the healthcare provider or facility's acts or omissions while providing or arranging healthcare in support of the response to COVID-19. Applies to injury or death stemming from care unrelated to COVID-19, including

insufficient staffing and PPE, and the delay or cancelation of nonurgent or elective medical services in response to federal or state statute, order, or guidance. Does not apply to gross negligence, willful and wanton misconduct, or an intentional tort. Goes into effect upon enactment, applies retroactively to claims made on or after January 1, 2021, and terminates on January 1, 2031. (2/10/21)

NC

S.L. 2021-3 includes a section that amends Section 3D.7(b) of S.L. 2020-3 to expand the duration of enacted COVID-19 liability protections beyond CY 2020 so long as there is a declared state of emergency in effect. Liability language is on Pages 16-17 of the bill text. (3/11/21)

S.L. 2020-3 aims to bolster the State's response to the COVID-19 epidemic by providing civil liability immunity to any entity deemed "essential" in the emergency orders, retroactive March 27. Applies to a broad swath of businesses. The new law also grants civil liability immunity to healthcare providers and healthcare facilities for acts or omissions in the course of arranging good faith healthcare services in response to the COVID 19 pandemic and for the duration of the COVID-19 emergency. Immunity would not apply if the damages were caused by willful or intentional misconduct, gross negligence, reckless misconduct, or intentional infliction of harm on the part of the healthcare provider or facility. Volunteer organizations would also be immune from liability for damages that occur at their facility unless there was willful or intentional misconduct, gross negligence, reckless misconduct, or intentional infliction of harm on the part of the volunteer organization. Protection does not bar regulatory actions, criminal charges, or workers' compensation claims, and is in effect for the duration of a state of emergency declared to be in effect during calendar year 2020 by the Governor and in response to COVID-19. (5/4/20)

E.O. No. 130 requests all licensed/authorized healthcare professionals to provide emergency services, and declares all those doing so to be deemed "emergency management workers" thereby granting them immunity from civil liability (excluding willful misconduct, gross negligence, or bad faith) under state law. Also authorizes the waiver of regulations to allow for increased health facility capacity or authority to provide certain services and waives certain healthcare professional licensing requirements. (4/8/20)

NJ

P.L. 2020, c.18 would provide civil liability immunity to healthcare professionals and medical facilities for injury or death stemming from an act or omission in the course of providing medical services in support of the COVID-19 outbreak pursuant to the Governor's public health emergency and state of emergency declarations. Liability protection covers telemedicine services and treating patients outside the medical professional's scope of practice. Exception for acts or omissions constituting a crime, actual fraud, actual malice, gross negligence, recklessness, or willful misconduct. Also authorizes temporary reinstatement and recertification of certain professional certifications. (4/14/20)

E.O. No. 112 provides civil liability immunity to healthcare professionals and facilities for acts or omissions undertaken in good faith in the course of providing healthcare services in support of the state's COVID-19 response, regardless of whether the care is delivered within the healthcare professional's scope of practice. Exception for acts or omissions that constitute a crime, actual fraud, actual malice, gross negligence or willful misconduct. Liability immunity applies to healthcare professionals licensed in the state and out-of-state healthcare professionals with a temporary license; Liability immunity applies to traditional healthcare facilities, any modular field treatment

	<p>facility, and any other site temporarily designated as a healthcare facility by the Department of Health. Provides process whereby retired and foreign medical professionals can obtain temporary license to assist with the COVID-19 pandemic response. Waives scope of practice requirements for advance practice nurses and physician assistants. Order covers any acts or omissions occurring any time during the State of Emergency or Public Health Emergency, whichever is longer. (4/1/20)</p>
<p>NV</p>	<p><b>S.B. 4</b> provides civil liability immunity to certain for-profit businesses, government entities, and private nonprofit organizations for personal injury or death resulting from exposure to COVID-19 so long as the covered entity substantially complied with controlling health standards. This measure does not apply if the covered entity violated controlling health standards with gross negligence, and that gross negligence was the proximate cause of the personal injury or death. While the measure reinforces civil liability protection for healthcare professionals, it does not protect hospitals, in-home nursing agencies, hospice care facilities, intermediate care facilities, skilled nursing facilities, and independent emergency medical care centers. The protections retroactively apply to claims accruing from the date of the state’s COVID-19 Declaration of Emergency, and expires on the date when the COVID-19 emergency declaration is terminated or on July 1, 2023, whichever comes first. (8/11/20)</p> <p><b>Directive 011</b> clarifies that healthcare professionals performing emergency management services in response to the COVID-19 pandemic pursuant to NRS 414.110 will be immune from civil liability. The directive also requires professional licensing boards to temporarily waive licensing requirements pertaining to out-of-state, foreign, and other skilled medical professionals who are not licensed in the state. The directive also temporarily authorizes medical professionals to practice outside their scope of practice, within the limits of their competency, to help bolster the state’s healthcare system during the duration of this pandemic. (4/1/20)</p> <p><b>NRS 414.110</b> provides civil liability immunity to healthcare professionals who perform emergency management services. Exception for cases of willful misconduct, gross negligence, or bad faith. (1983)</p>
<p>NY</p>	<p><b>S.8835 / A.10840</b> rolls back civil liability protections previously provided to healthcare professionals, hospitals, administrators, and nursing homes (<b>Public Health Law §3082</b>). Specifically, the new law strips liability protections from providers/facilities for services performed for individuals who are not actual or suspected COVID-19 patients, even if such services are disrupted due to the pandemic response. (8/3/20)</p> <p>The New York Department of Financial Services formally issued an <b>emergency measure</b> that amends the state’s insurance regulations to provide relief to policyholders, contract holders, and insureds who can demonstrate financial hardship related to the COVID-19 pandemic. The measure simply formalizes provisions of <b>Executive Order 202.13</b> regarding the non-cancellation of policies due to delayed premium payments. (6/28/20)</p> <p>New York’s FY2021 final budget (<b>S7506-B/A9506-B</b>) included the Emergency Disaster Treatment Protection Act (Part GGG; <b>Public Health Law §3082</b>) which grants qualified immunity to hospitals, nursing homes, administrators, board members, physicians, nurses, and other providers from civil and criminal liability arising from decisions, acts, and omissions occurring from the start of Gov. Cuomo’s March 7<sup>th</sup> emergency declaration through its expiration. It covers liability stemming from the care of individuals with COVID-19 or suspected of having COVID-19. The law also covered</p>

	<p>liability stemming from care unrelated to COVID-19, including any delay in non-essential care, until Governor Cuomo signed <a href="#">S.8835 / A.10840</a> into law on August 3, 2020. (4/3/20)</p> <p><a href="#">E.O. 202-10</a> provides civil liability immunity to all physicians, physician assistants, specialist assistants, nurse practitioners, licensed registered professional nurses, and licensed practical nurses for any injury or death alleged to have been sustained directly as a result of an act or omission in the course of providing medical services in support of the State’s COVID-19 outbreak response. Excepts injury or death caused by gross negligence. (3/23/20)</p>
OH	<p><a href="#">H.B. 606</a> provides civil immunity to numerous entities (including healthcare providers and facilities) from lawsuits arising from exposure, transmission, or contraction of COVID-19 absent a showing of reckless, intentional, or willful misconduct. The law applies to acts, omissions, conduct, decisions, or compliance from the date of the Governor’s Executive Order 2020-01D declaring a state of emergency, issued on March 9, 2020, through September 30, 2021. (9/14/20)</p>
OK	<p><a href="#">63 O.S. §6406</a> provides civil liability immunity to a health care facility or health care provider for any loss or harm to a person with a suspected or confirmed diagnosis of COVID-19 caused by an act or omission by the facility or provider that occurs during the COVID-19 public health emergency. Exempts acts or omissions resulting from gross negligence or willful or wanton misconduct. Does not apply to acts or omissions in the provision of healthcare services to a person who did not have a suspected or confirmed diagnosis of COVID-19 at the time of the services. The provisions of this act are in effect until October 31, 2020, or until the termination of the state’s COVID-19 public health emergency. (5/12/20)</p> <p><a href="#">E.O. 2020-13 (3<sup>rd</sup> Amended)</a> extends civil liability immunity already provided to certain entities under 76 O.S. §5.9 to healthcare providers and healthcare facilities providing care during the COVID-19 health emergency. Statutory exception for gross negligence, or willful or wanton misconduct apply to healthcare providers and facilities. (4/20/20)</p> <p><a href="#">76 O.S. §5.9</a> provides civil liability immunity to any individual, business, church, or school that renders emergency care, aid, shelter, or other assistance during a natural disaster or catastrophic event, unless the damage was caused by the gross negligence, or willful or wanton misconduct of the individual or entity rendering the emergency care, aid, shelter, or assistance. (2016)</p>
PA	<p><a href="#">5/6/20 Executive order</a> grants civil liability immunity to healthcare professionals who are engaged in emergency and disaster services activities related to the Commonwealth’s COVID-19 disaster emergency response. It also extends immunity to medical professionals that provide services in any healthcare facility as defined by the Health Care Facilities Act, as well as any nursing facility, personal care home, assisted living facility, or any alternate care site, community-based testing site or non-congregate care facility used for the purpose of conducting emergency and disaster services activities related to the Commonwealth’s COVID-19 disaster emergency response. The order provides immunity for any person, organization, or authority allowing real estate or other premises used for emergency services without compensation. Finally, it suspends or removes regulatory barriers that would otherwise impede or prevent out-of-state, retired, or other qualified practitioners from providing services where needed in the Commonwealth. Civil liability immunity provided by this executive order does not extend to acts or omissions that constitute a crime, gross negligence, or fraud, malice, or other willful misconduct. The order explicitly does not apply to healthcare professionals rendering non-COVID-19 medical and health treatment or services to individuals, nor does it apply broadly to healthcare facilities. (5/6/20)</p>

<p><b>RI</b></p>	<p><b><u>E.O. No. 20-70</u></b> extends civil liability immunity provided to “disaster response workers” under R.I. Gen. Laws §30-15-15(a) to healthcare facilities, healthcare professionals, and certain healthcare workers providing healthcare and/or personal assistance services to assist with the State’s response to the COVID-19 pandemic, including those services beyond or without a license as permitted by R.I. Gen. Laws 30-15-15(b). The order does not provide immunity for negligence of any person or organization not deemed and/or affirmed a disaster response worker pursuant to this order. It exempts willful misconduct, gross negligence, or bad faith under R.I. Gen. Laws 30-15-15(c). It applies to landlords (and their employees, management companies, and contractors) who make surge hospital locations and alternative nursing sites available to the State. This order will be in effect from September 3, 2020 through October 3, 2020, unless renewed, modified, or terminated by a subsequent order. It follows the expiration of <b><u>E.O No. 20-21</u></b> and <b><u>E.O. No. 20-33</u></b>. (9/2/20)</p>
<p><b>SD</b></p>	<p><b><u>H.B. 1046</u></b> states that a health care provider is not liable for any damages for causing or contributing, directly or indirectly, to the death or injury of a person as a result of the health care provider's acts or omissions in response to COVID-19. It applies to injury or death stemming from the treatment of persons with a suspected or confirmed case of COVID-19. H.R. 1046 applies to acts or omissions while providing healthcare to persons unrelated to COVID-19 (i.e., delay of elective healthcare, etc.). The enactment exempts gross negligence, recklessness, or willful misconduct; Includes business liability provisions. The law applies to incidents that occur, accrue, or begin, whether known, unknown, or latent between January 1, 2020 and December 2022. (2/18/20)</p>
<p><b>TN</b></p>	<p><b><u>Tenn. Code Ann. § 29-34-802</u></b> provides civil liability immunity to an individual or legal entity for loss, damages, injury, or death arising from COVID-19, unless the claimant proves that gross negligence or willful misconduct was involved by clear and convincing evidence. It applies to all healthcare professionals, administrators, and facilities for claims stemming from a broad range of healthcare services and decisions, including any decisions to close facilities or delay nonessential care to prevent or minimize the spread of the novel coronavirus. Any action must include a verified complaint and a certificate of good faith with a written statement from a physician. The protection does not apply to COVID-19 claims and written notices that were filed on or before August 3, 2020, and it sunsets on July 1, 2022. (8/12/20)</p> <p><b><u>Executive Order No. 53</u></b> grants civil liability immunity to healthcare providers who render healthcare services within the limits of their license, certification, or authorization for any illness, injury, death, or damages related to the contraction of, or suspected contraction of, COVID-19 alleged to have been caused by acts or omissions within the limits of the provider’s license, certification, or authorization. The protection also applies to acts or omissions resulting from lack of resources attributable to or arising out of the provider’s response to the COVID-19 pandemic that renders the healthcare provider unable to provide the level or manner of care or services that would otherwise be required in the absence of the pandemic. Acts or omissions caused by gross negligence or willful misconduct are exempt from this order. This order goes into effect at 12:01 am (CT) on July 2, 2020 and remains in effect until 11:59 pm (CT) on July 31, 2020 unless extended. (7/1/20)</p>

<p><b>UT</b></p>	<p><a href="#">Utah Code Annotated 58-13-2.7</a> provides civil liability immunity to a healthcare provider for any harm resulting from any act or omission in the course of providing health care in good faith during a declared major public health disaster under certain conditions. Definition of <i>healthcare provider</i> under <a href="#">78B-3-403</a> includes various healthcare facilities. Exception for gross negligence and intentional or malicious misconduct. Healthcare is not deemed to be in breach of the applicable standard of care under certain conditions, such as that the care is rendered within the healthcare provider’s scope of practice; Provides limited civil immunity for healthcare providers who use certain treatments, investigational drugs, and/or investigational devices during a major public health emergency; Provides limited civil immunity for assisting a state agency in providing a qualified treatment during a major public health emergency. Signed into law on 4/22/20. <b>(4/22/20)</b></p>
<p><b>VA</b></p>	<p><a href="#">§8.01-225.03</a> states that a licensed hospice, home care organization, private provider licensed by the Department of Behavioral Health and Developmental Services, assisted living facility, or adult day care center that delivers care to or withholds care from a patient, resident, or person receiving services who is diagnosed as being or is believed to be infected with the COVID-19 virus shall not be liable for any injury or wrongful death of such patient, resident, or person receiving services arising from the delivery or withholding of care when the emergency and subsequent conditions caused by the emergency result in a lack of resources, attributable to the disaster, that render such hospice, home care organization, private provider, assisted living facility, or adult day care center unable to provide the level or manner of care that otherwise would have been required in the absence of the emergency and that resulted in the injury or wrongful death at issue. The law provides exemptions for gross negligence and willful misconduct. The immunity provided in this law shall be in addition to immunities provided in other state or federal law, including §§8.01-225 and §§44-146.23. The law applies to causes of action arising between March 12, 2020 and the termination of the state of emergency set forth in Executive Order 51. <b>(10/13/20)</b></p> <p><a href="#">E.O. Number Sixty</a> clarifies the application of state liability protections under <a href="#">§8.01-255.01</a> and <a href="#">§8.01-255.02</a> of the Virginia Code to healthcare providers who respond to COVID-19. Specifically, the order coupled with the referenced statutory sections ensure civil liability immunity for healthcare providers who use triage strategies, such as prioritizing which patients receive care and deviating from the standard of care, during the COVID-19 emergency. There is an exemption for gross negligence or willful misconduct. The order fails to extend the same liability protection to healthcare facilities. <b>(4/28/20)</b></p>
<p><b>VT</b></p>	<p><a href="#">Add. 9 to E.O. 01-20</a> clarifies that under protections afforded by <a href="#">20 V.S.A. §20</a>, healthcare facilities, healthcare providers, and healthcare volunteers would be immune from civil liability for any death, injury, or loss resulting from COVID-19-related emergency management services or response activities, except in the case of willful misconduct or gross negligence. The order goes on to define key terms to help clarify the State’s interpretation of the scope of the civil liability immunity provided under <a href="#">20 V.S.A. §20</a>. <b>(4/10/20)</b></p>
<p><b>WI</b></p>	<p><a href="#">6/17/20 IPFCF Premium Holiday</a> - The Board of Governors for the Wisconsin Injured Patients and Families Compensation Fund (the Fund) waived premiums for the next fiscal year for healthcare professionals enrolled in the fund. The premium holiday was originally requested by the Wisconsin Medical Society and endorsed by the fund’s Actuarial and Underwriting and Finance/Investment/Audit committees before it was approved by the Board. The premium holiday will be in effect from July 1, 2020 through June 30, 2021. <b>(6/17/20)</b></p>

**2019 Wisconsin Act 185** provides civil liability immunity to a healthcare professional, healthcare provider, or an employee, agent, or contractor of a healthcare professional or healthcare provider, for the death or injury to any individual or any damages caused by actions or omissions following the delivery of healthcare services during the COVID-19 public health emergency, and 60 days following the termination of the emergency. To be immune from liability, healthcare services must be in good faith and be consistent with state or federal guidance related to the public health emergency. Exception for deaths or injuries stemming from reckless or wanton conduct or intentional misconduct. The law also extends civil liability immunity to manufacturers, distributors and sellers of emergency medical supplies and equipment that donate or sell their product. These manufacturing entities would be exempt from civil liability only if the product were sold or donated at a price that does not exceed the cost of production. **(4/15/20)**

**3/31/20 Bulletin** issued by the Wisconsin Office of the Commissioner of Insurance (OCI) requests that MPL insurers cover licensed healthcare providers who treat patients via telemedicine as if they are treating patients in person for the duration of the COVID-19 Public Health Emergency issued by the Governor's Executive Order #16. The bulletin also asks MPL insurers to cover out-of-state medical providers treating patients with a temporary license for the duration of the COVID-19 Public Health emergency. **(3/31/20)**

**WV**

**SB 277** prohibits claims against health care providers, health care facilities, first responders, volunteers, and other entities for loss, damage, physical injury, or death arising from COVID-19, or from impacted care. Doesn't apply to acts or omissions stemming from intentional conduct with actual malice. Retroactive from January 1, 2020. **(3/19/21)**

For more information, please contact our Government Relations Department at (301) 947-9000 or [governmentsrelations@MPLassociation.org](mailto:governmentsrelations@MPLassociation.org).

3/30/21