

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:

State	Summary	
	Executive Orders	Statutes/Bills
AK	<p><u>HB 76</u> provides civil liability immunity from COVID-19 exposure liability for individuals with occupational licenses, as well as to businesses and their employees so long as they can demonstrate compliance with federal, state, or local public health mandates. Liability protections do not apply to acts or omissions that constitute gross negligence, reckless misconduct, or intentional misconduct. Remains in effect through June 30, 2023. (4/30/21)</p>	
AL	<p><u>8/13/21 Proclamation</u> reinstated the COVID-19 public health emergency in Alabama. Included a section that authorized medical facilities that invoked emergency operation plans in response to the public health emergency to implement “alternative standard of care” plans that were deemed to be state-approved standard of care for the purpose of delivery of healthcare services by healthcare professionals who respond to the pandemic. These alternative standards established the “degree of care” owed to patients by licensed, registered, or certified healthcare professionals and facilities. Allowed for expedited licensure and/or temporary permits for out-of-state healthcare practitioners who cared for Alabama patients in in-patient units, emergency departments, and other acute care units located in certain hospital settings. Healthcare professionals and assisting personnel who executed alternative standards of care in good faith were declared to be “Emergency Management Workers.” Maintained civil liability protections afforded under Act No. 2021-4. Extended by <u>10/8/21 Proclamation</u> until 10/31/21. Expired on 10/31/21.</p> <p><u>Act No. 2021-4</u> provides civil liability protection for healthcare providers and facilities for any care related to or affected by COVID-19. Applies to care provided between 3/13/2020 and 12/31/2021. Allows only economic damages to be paid for most injuries; allows punitive damages only for wrongful death. Exceptions for wanton, reckless, willful, or intentional misconduct. (2/11/21)</p> <p><u>Amended executive order</u> provided civil liability immunity to a business, healthcare provider (definition includes facilities), and other covered entities for the death or injury to persons or for damage to property in any way arising from any act or omission related to, or in connection with, COVID-19 transmission or a covered COVID-19 response activity, unless a claimant showed by clear and convincing evidence that the claimant’s alleged death, injury, or damage was caused by the business, healthcare provider, or other covered entity’s wanton, reckless, willful, or intentional misconduct. (5/8/20); Terminated by <u>7/6/21 Proclamation</u></p>	

AR

Act 510 (HB 1521) includes a section that codifies COVID-19 liability protections provided via **Executive Orders 20-18** and **20-34**. Specifically, it extends civil liability immunity provided to emergency responders pursuant to **Sec. 12-75-128** to healthcare providers under certain circumstances. The measure also provides civil liability immunity to healthcare providers and facilities for death, injury, or property damage alleged to have been sustained as a result of any act or omissions by the healthcare provider while performing emergency management functions related to COVID-19. It provides immunity to healthcare providers for using any prescription drug or device to treat a COVID-19 patient or suspected COVID-19 patient if certain proscribed conditions are met. The law covers good faith healthcare services provided for the diagnosis, treatment, cure, mitigation, or prevention of COVID-19 and was the direct result of the healthcare provider's providing a healthcare service to a patient for the treatment and mitigation of COVID-19 or its symptoms. Applies to physicians, physician assistants, specialist assistants, nurse practitioners, licensed practical nurses. The enactment does not cover acts or omissions that represent willful, reckless, or intentional misconduct. The protections expire on May 1, 2023, unless extended by the General Assembly. (4/1/21)

E.O. 20-34 provided civil liability immunity to healthcare providers for any death, injury, or property damage alleged to have been sustained as a result of any act or omission in the course of providing COVID-19 related emergency management functions during the public health emergency. The act or omission must have occurred as a result of a good faith effort on the part of the healthcare provider and have been the direct result of the healthcare provider's provision of healthcare services to a patient for the treatment and mitigation of COVID-19 or the symptoms of COVID-19 during the COVID-19 public health emergency. Exempted willful, reckless, or intentional misconduct. While this order encouraged healthcare providers to practice within their scope of practice, it did not tie scope of practice to the liability protections afforded by this order. This order also included civil liability immunity to healthcare providers who used any prescription drug or device to treat known or suspected COVID-19 infections under certain stipulated conditions. This order was intended to build upon civil liability protections previously granted to certain emergency responders pursuant to E.O. 20-18, referenced below. (6/15/20); No longer in effect following the expiration of the public health emergency on May 30, 2021.

E.O. 20-18 provided civil liability immunity to emergency responders 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 or the implementation of measures to control the causes of the COVID-19 epidemic. Immunity was provided to responders who were employed by a state or federal government entity, a private entity, or a non-profit entity. Emergency responders did not receive immunity if they engaged in acts or omissions that caused 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, *emergency responder*, included physicians, physician assistants, specialist assistants, nurse practitioners, licensed registered nurses, and licensed practical nurses, for the purposes of this order. The order suspended 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 suspended 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); No longer in effect following the expiration of the public health emergency on May 30, 2021.

AZ	<p><u>S.B. 1377</u> is a broad pandemic liability law that includes civil liability protections for healthcare professionals and institutions that act in good faith to provide healthcare services in support of the Governor's state of emergency addressing a public health pandemic, unless willful misconduct or gross negligence can be proven by clear and convincing evidence. It applies to acts or omissions directly related to public health pandemic care/decisions, as well as to acts or omissions indirectly related to public health pandemic care/decisions (i.e., delaying nonurgent care, workforce/PPE shortage). The measure goes into effect 90 days after the conclusion of the 2021 Legislative Session and applies retroactively to acts or omissions occurring on or after March 11, 2020. (4/5/21)</p> <p><u>E.O. 2020-63</u> extended 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 provided 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 applied 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 applied 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); Expired on 3/31/21.</p>
CA	<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>
CT	<p><u>E.O. No. 10A</u> partially renewed civil liability immunity provided under <u>E.O. No. 7V</u> (below) for the duration of the current public health and civil preparedness emergencies; Immunity applied only to healthcare professionals which was 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. Protections for healthcare facilities, including hospitals and nursing homes, ended on March 1, 2021. Was effective March 1, 2021 through the duration of the current public health and civil preparedness emergencies. (2/8/21); Civil liability protections ended on July 20, 2021 when public health emergency lifted by <u>E.O. No. 13</u>.</p> <p><u>E.O. No. 7U</u> - 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</p>

	<p>retroactively from 3/10/20 through duration of public health and civil preparedness emergency unless modified or terminated by the Governor. (4/7/20) Renewed by E.O. No. 7V.</p>
FL	<p>Ch. 2022-10 (SB 7014) extends existing COVID-19 liability protections for healthcare providers and facilities provided by Ch. 2021-1 to June 1, 2023. (2.24.22)</p> <p>Ch. 2021-1 (SB 72) 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. Applies to claims that have accrued before the effective date of this law and within 1 year after the effective date. Law went into effect on 3/29/21 and applies to claims accruing until 3/29/22. (3/29/21)</p>
GA	<p>Act 175 extends COVID-19 liability protections previously provided to healthcare providers, healthcare facilities, and businesses by Act 558 for one year. Liability protections will now apply to claims accruing until July 14, 2022. (5/4/21)</p> <p>Act 588 shielded 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 required a greater showing of provider fault than a simple negligence claim and were more difficult to prove. The law applied to claims stemming from injury or death arising from the transmission, infection, exposure, or potential exposure of COVID-19, and provided legal protection to a claimant at any healthcare facility or on the premises of any entity, individual, or healthcare provider. It also applied to acts or omissions by a healthcare facility or provider in arranging for or providing healthcare services or 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 applied 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 provided 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 went into effect on August 8, 2020 and applied to causes of action that accrued until July 14, 2021. (8/5/20); Liability protections expired on 7/15/21.</p> <p>E.O. 05.12.20.02 extended civil liability immunity provided to “auxiliary emergency management workers” under OCGA 38-3-35 to healthcare facilities and certain healthcare professionals who</p>

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 prohibited civil liability immunity from applying to healthcare professionals who work in abortion facilities. (5/12/20); **Liability protections extended via E.O. 5.28.21.01; Liability protections ended along with public health emergency on 6/29/21.**

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)

II	<p>E.O. No. 21-06 expands the directive calling for assistance and civil liability protections provided by E.O. No. 20-05 to additional classes of healthcare professionals, including emergency medical services personnel, firefighters, and healthcare facility administrative and management professionals. It also updates what it means for a covered entity to “render assistance” to include cancelling or postponing elective surgeries, implementing the state’s “crisis standards of care triage allocation” as deemed appropriate by each facility, and conserving scarce medical resources, such as oxygen and other medical supplies and countermeasures, at the direction of the Hawaii Department of Health. The updated order preserves the ability of injured parties to file civil liability actions in response to death, injury, or property damage caused by willful misconduct, gross negligence, or recklessness. (9/1/21)</p> <p>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)</p>
IA	<p>I.C.A. § 686D (SF 2338) - 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. Exempts recklessness or willful misconduct. (6/18/20)</p>

ID	<p><u>H.B. 444</u> extends the sunset of COVID-19 liability protections provided by <u>HB 6</u>, to July 1, 2023. (2/28/22)</p> <p><u>H.B. 149</u> extends the sunset of COVID-19 liability protections enacted last year, <u>HB 6</u>, to July 1, 2022. (3/19/21)</p> <p><u>H.B. 6</u> provided 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 did not require a declaration of emergency by the Governor, nor did it require good faith actions. The law went into effect on August 27th and was scheduled to sunset on 7/1/2021, but has been extended. (8/27/20).</p>
IL	<p><u>Executive Order 2020-37</u> clarified the COVID-19 liability protections provided to healthcare professionals, facilities, and volunteers. Clarified that hospitals performing elective surgeries are protected from liability. With some exceptions, hospitals were required to accept transfer of COVID-19 patients from other hospitals and state-operated facilities lacking capacity or capability to provide treatment. Healthcare facilities were required to conduct widespread COVID-19 testing of staff and patients/residents to qualify for liability protections. Narrowed the scope of immunity granted to certain healthcare providers. (5/13/20); Extended by <u>E.O. 2020-39</u> until 6/27/20 when liability protections expired.</p> <p><u>Executive Order 2020-19</u> provides civil liability protections 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. (4/1/20)</p>
IN	<p><u>HB 1002</u> provides civil liability immunity to certain persons, entities, and facilities providing or delaying health care and other services (including telehealth) during a state disaster emergency. Applies to clinical or nonclinical administrative activities, organization, management, planning, or staffing concerning a healthcare service. Applies to use or nonuse of supplies or equipment. Protects health care providers from professional discipline for certain acts or omissions arising from a disaster emergency under certain circumstances. Requires a certificate of merit to be submitted with liability claim. Prohibits a class action lawsuit against a defendant in a civil action allowed by the statute. Specifies that orders and recommendations issued by local, state, and federal government agencies and officials during a state disaster emergency do not create new causes of action or new legal duties. These orders are inadmissible at trial to establish that a new cause of action has been created or proof of a duty or a breach of a duty. Exemption for acts or omissions constituting gross negligence, willful or wanton misconduct, or intentional misrepresentation. Effective retroactively starting March 1, 2020 and expires on April 1, 2022. (4/29/21)</p> <p><u>S.B. 1</u> 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</p>

misconduct (including fraud or intentionally tortious acts). Applies to actions accruing on or after March 1, 2020 and expires on 12/31/24. (2/18/21)

IC 34-30-13.5-1 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. (2006)

KS

SB 283 amends **H.B. 2016** to specify that healthcare provider immunity would apply retroactively to any cause of action accruing on or after March 12, 2020, and prior to March 31, 2022. Also extends the expiration of a **COVID-19 liability law for businesses** to March 31, 2022. (3/31/21); Protections expired on 3/31/22 with governor's veto of proposed extension.

E.O. 22-01 provided the same civil liability protections as those provided by **E.O. 20-26**, though these protections overlapped with existing statutory protections under **SB 283**. Order primarily focused on hospital staffing and regulatory flexibilities regarding midlevel and out-of-state providers, etc. (1/6/22); Was in effect from 1/6/22 through 1/21/22.

H.B. 2126 eliminates the affirmative defense available in certain circumstances to adult care facilities in a civil action for damages, administrative fines, or penalties for a COVID-19 claim and replaces it with immunity from liability for a covered facility in a civil action for damages for a COVID-19 claim if such facility was in substantial compliance with public health directives applicable to the activity giving rise for the cause of action when the cause of action accrued. Covered entities include adult care homes, community mental health centers, crisis intervention centers, community service providers, and community developmental disability organizations. Exempts acts, omissions, or decisions constituting gross negligence or willful, wanton, or reckless conduct. Applies retroactively to cases accruing on or after March 12, 2020 and concludes at the termination of the public health emergency. (4/9/21)

H.B. 2016 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. (6/8/20)

E.O. 20-26 provided civil liability immunity, pursuant to K.S.A. 48-915, to healthcare professionals and facilities who made 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 related to the COVID-19 outbreak and the proclamation issued declaring a state of disaster emergency. Exempted 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 did not limit or change protections from liability under state law, nor did it extend to medical treatment or procedures performed in the ordinary or customary course of practice. The order also suspended 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. (4/22/20); Expired on 5/31/20.

K.S.A. § 65-2891 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. (2012)

KY

S.B. 5 provides civil liability protection to essential service providers (including healthcare providers and facilities) against COVID-19 claims during the declared COVID-19 emergency, except in cases of gross negligence, or wanton, willful, malicious, or intentional misconduct. It sets a one-year statute of limitations for any COVID-19 claims against an essential service provider. With respect to essential service providers, the enactment applies retroactively starting March 6, 2020 until December 31, 2023. (4/11/21)

S.B. 150 provided 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 applied 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 included (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. Applied to acts or omissions occurring between 3/6/20 and 1/15/22. (3/30/20); **Protections don't apply to acts or omissions occurring after 1/15/22.**

LA

LSA R.S. 29:771(B)(2)(c) 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. (2012)

MA

Chapter 64 of the Acts of 2020 provided 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. Exempted 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 didn't apply to consumer protection actions brought by the

	<p>Attorney General, or to false claims actions brought by or on behalf of the Commonwealth. Also provided 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. (4/17/20) Ended on June 15, 2021 with rescission of COVID-19 emergency. Revived on 2/15/22 through the enactment of H 4345, which was designated as Chapter 22 of the Acts of 2022. Liability protections retroactively took effect on 11/22/21 and apply to claims based on acts or omissions that occur or have occurred during the outbreak of COVID-19, and subsequent variants.</p>
MD	<p><u>Code, Public Safety § 14-3A-06</u> provides civil or criminal liability immunity to a healthcare provider who acts in good faith and under a catastrophic health emergency proclamation. (2014)</p>
MI	<p>Under <u>H.B. 6159</u>, a health care provider or facility that provided 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 did not apply to providers and facilities that render health care services that constituted willful misconduct, gross negligence, intentional and willful criminal misconduct, or intentional infliction of harm, nor did the protection apply to claims covered by the Worker's Disability Compensation Act. The liability protection provided by this Act applied retroactively to causes of action arising between March 9, 2020 and July 14, 2020. (10/16/20) Expired on 7/14/20.</p> <p>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. Exempted injury or death caused by gross negligence. (Issued on 4/26/20; Rescinded on 7/13/20 by E.O. 2020-150)</p> <p><u>MCL 30.411(4)</u> 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)</p>
MO	<p><u>S.B. 51</u> states that no health care provider (providers and facilities) shall be liable in a COVID-19 medical liability action unless the plaintiff can prove that recklessness or willful misconduct caused the alleged harm, damage, breach, or tort that resulted in a personal injury. Stipulates that an elective procedure that is delayed with good cause does not constitute recklessness or willful misconduct. COVID-19 medical liability protections expire four years after the effective date. Establishes a 1-year statute of limitations (from the date of discovery) for plaintiffs to commence a COVID-19 medical liability action, unless the action is tolled for proof of fraud, intentional concealment, or the presence of a foreign body which has no therapeutic or diagnostic purpose or effect. The law includes separate sections providing COVID-19 exposure liability and COVID-19 product liability protections. (7/7/21) Ends on 7/7/25.</p>

MS	<p>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 cancellation 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) Expires on 11/20/22.</p> <p>E.O. 1471 provided 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 applied to acts or omissions undertaken because of a lack of resources attributable to the COVID-19 pandemic that rendered 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. Exempted 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 <i>et seq.</i> (4/10/20) Extended by E.O.’s 1485, 1494, 1497, 1503; Terminated on 7/31/20 following legislature’s passage of SB 3049.</p>
MT	<p>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 cancellation 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)</p>
NC	<p>E.O. No. 193 expands civil liability protections to those administering vaccinations or COVID-19 testing, as well as to anyone issuing medical standing orders for COVID-19 vaccinations or testing, in addition to all those who “perform professional skills in the field of health care” by declaring them “emergency management workers.” (2/9/21) Effective April 8, 2020 and extended by multiple executive orders, most recently through April 5, 2022 by E.O. 245.</p> <p>S.L. 2021-3 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)</p> <p>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.</p>

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; Extended via E.O.'s 148, 152, 165, 177, and 193.)

ND [HB 1175](#) provides civil liability protections to health care providers and health care facilities for any act or omission in response to COVID - 19 that causes or contributes, directly or indirectly, to the death or injury of an individual. The law applies to actual or suspected COVID-19 healthcare, as well as to healthcare services unrelated to COVID-19 (i.e., delaying/canceling nonurgent/elective care). Exemption for willful and wanton misconduct, reckless infliction of harm, or intentional infliction of harm. Applies retroactively to claims arising on or after January 1, 2020. (4/26/21)

NE [LB 139](#) prohibits a person from bringing or maintaining a civil action seeking recovery for injuries or damages sustained from exposure or potential exposure to COVID-19 on or after the effective date of this act if the act or omission alleged to violate a duty of care that was in substantial compliance with any federal public health guidance that was applicable to the person, place, or activity at issue at the time of the alleged exposure or potential exposure. The law establishes a Health Care Crisis Protocol that establishes the plans and protocols for triage and the application of medical services and resources for critically ill patients in the event that the demand for medical services and resources exceeds supply as a result of a catastrophic disaster. This enactment would not change the standard for malpractice or professional negligence, but would change the circumstances under which those standards apply. Effective upon enactment date with no sunset clause. (5/27/21)

NJ [P.L. 2021, c.104](#) terminated the Governor's COVID-19 public health emergency ([E.O. No. 103](#)) and most of the executive orders accompanying it 30 days after the effective date, except for a list of executive orders including [E.O. No. 112](#). Civil and criminal liability protections related to the COVID-19 response bestowed by [E.O. No. 112](#), [P.L. 2020, c.18](#), as well as those protections under the Department of Health Executive Directive [No. 20-006](#) which applied to health care professionals, health care facilities, health care systems, modular field treatment facilities, and any other sites designated by the Health Department Commissioner for temporary use in connection with the State's COVID-19 response, expired on 9/1/2021. Conduct relating to healthcare professionals, facilities, or systems occurring prior to 9/1/2021 will retain civil or criminal liability protections provided by [E.O. No. 112](#), [P.L. 2020, c.18](#), or [Directive No. 20-006](#). Healthcare professionals engaged in vaccinations or testing related to COVID-19 retained civil liability protections until December 31, 2021. The provision of any administrative order, directive, or waiver

issued by the Department of Health that relied on the public health emergency (E.O. No. 103) relating to governing staffing ratios, overtime shifts, and vacation time expired on 9/1/21. (6/4/21)

P.L. 2020, c.18 provided 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 covered telemedicine services and treating patients outside the medical professional's scope of practice. Exempted acts or omissions constituting a crime, actual fraud, actual malice, gross negligence, recklessness, or willful misconduct. Also authorized temporary reinstatement and recertification of certain professional certifications.

(4/14/20) All COVID-19 protections have ended pursuant to P.L. 2021, c.104

E.O. No. 112 provided 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 was delivered within the healthcare professional's scope of practice. Exempted acts or omissions that constitute a crime, actual fraud, actual malice, gross negligence or willful misconduct. Liability immunity applied to healthcare professionals licensed in the state and out-of-state healthcare professionals with a temporary license; Liability immunity applied to traditional healthcare facilities, any modular field treatment facility, and any other site temporarily designated as a healthcare facility by the Department of Health. Provided process whereby retired and foreign medical professionals can obtain temporary license to assist with the COVID-19 pandemic response. Waived scope of practice requirements for advance practice nurses and physician assistants. Order covered any acts or omissions occurring any time during the State of Emergency or Public Health Emergency, whichever was longer.

(4/1/20) Expired on 1/1/22 pursuant to P.L. 2021, c.104

NV

S.B. 4 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)

Directive 011 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 the COVID-19 pandemic. (4/1/20)

NRS 414.110 provides civil liability immunity to healthcare professionals who perform emergency management services. Exception for cases of willful misconduct, gross negligence, or bad faith. (1983)

NY	<p>A.3397 (Chap. 96) repealed the <i>Emergency or Disaster Treatment Protection Act</i>, which provided civil immunity to health care professionals and facilities who treat actual or suspected COVID-19 patients. The law does not explicitly address whether the repeal applies retroactively. Legal sources in New York believe that standing case law prevents the statute from being applied retroactively. (4/6/21)</p> <p>S.8835 / A.10840 rolled back civil liability protections previously provided to healthcare professionals, hospitals, administrators, and nursing homes (Public Health Law §3082). Specifically, the law stripped liability protections from providers/facilities for services performed for individuals who were not actual or suspected COVID-19 patients, even if such services were disrupted due to the pandemic response. (8/3/20)</p> <p>New York's FY2021 final budget (S7506-B/A9506-B) included the Emergency Disaster Treatment Protection Act (Part GGG; Public Health Law §3082) which granted 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 the governor's 3/7/20 emergency declaration through its expiration. It covered liability stemming from the care of individuals with COVID-19 or suspected of having COVID-19. The law also covered liability stemming from care unrelated to COVID-19, including any delays in non-essential care, until the governor signed S.8835 / A.10840 into law on August 3, 2020. (4/3/20)</p> <p>E.O. 202-10 provided 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. Exempted injury or death caused by gross negligence. (3/23/20); Expired on May 8, 2020 pursuant to E.O. 202.28.</p>
OH	<p>H.B. 606 provided 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 applied 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); Expired on 9/30/21.</p>
OK	<p>63 O.S. §6406 provided 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. Exempted acts or omissions resulting from gross negligence or willful or wanton misconduct. Did 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 were scheduled to be in effect until October 31, 2020, or until the termination of the state's COVID-19 public health emergency, whichever was later. (5/12/20); Expired when state of emergency ended on 5/12/21.</p> <p>E.O. 2020-13 (3rd Amended) extended 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 applied to healthcare providers and facilities. (4/20/20); Expired 30 days after filing.</p>

76 O.S. §5.9 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)

PA

5/6/20 Executive order granted civil liability immunity to healthcare professionals who were engaged in emergency and disaster services activities related to the Commonwealth's COVID-19 disaster emergency response. It also extended immunity to medical professionals that provided 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 provided immunity for any person, organization, or authority allowing real estate or other premises used for emergency services without compensation. Finally, it suspended or removed 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 did not extend to acts or omissions that constituted a crime, gross negligence, or fraud, malice, or other willful misconduct. The order did not apply to healthcare professionals rendering non-COVID-19 medical and health treatment or services to individuals, nor did it apply broadly to healthcare facilities. Applied for duration of COVID-19 disaster emergency (5/6/20) **Expired when General Assembly voted to end Governor's COVID-19 disaster emergency on June 15, 2021.**

RI

E.O. No. 20-70 extended 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 did not provide immunity for negligence of any person or organization not deemed and/or affirmed a disaster response worker pursuant to this order. It exempted willful misconduct, gross negligence, or bad faith under R.I. Gen. Laws 30-15-15(c). It applied to landlords (and their employees, management companies, and contractors) who make surge hospital locations and alternative nursing sites available to the State. Was in effect from September 3, 2020 through October 3, 2020, unless renewed, modified, or terminated by a subsequent order. It followed the expiration of **E.O No. 20-21 and E.O. No. 20-33. (9/2/20) Expired on 10/3/2020 without subsequent renewal.**

SC

S.147 provided civil liability protections to healthcare providers and facilities that reasonably adhered to public health guidance for acts or omissions resulting from healthcare services or decisions rendered in response to COVID-19, including the delay or withholding of medical care for the treatment or diagnosis of the coronavirus. Covered the provision of healthcare services related to the coronavirus outside of a provider's professional scope of practice. Applied to the off-label use of medicines and medical equipment to combat the coronavirus. Covered the manufacturing or donating of precautionary equipment or supplies, including PPE, due to shortages during the pandemic. Claimants must prove by *clear and convincing evidence* that the injury or damage resulted from gross negligence, reckless, willful, or intentional misconduct or a failure to make any attempt to adhere to the public health guidance prevailing at the time of incident. A *preponderance of evidence* standard applies to cases involving healthcare providers practicing outside their scope of practice and cases involving the off-label use of medications or medical devices. Applied retroactively to claims arising between March 13, 2020 (the date of the governor's declaration of a state of emergency) and June 30, 2021, or 180 days after the state of emergency is lifted in the

	future, whichever is later. (4/28/21) Expired on 12/4/21. (180 days after termination of COVID-19 Emergency on 6/7/21.)
SD	<u>H.B. 1046</u> 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)
TN	<u>Tenn. Code Ann. § 29-34-802</u> 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) Protections extended to 7/1/23 via HB 2671 / SB 2448. <u>Executive Order No. 53</u> granted civil liability immunity to healthcare providers who rendered 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 applied 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 rendered 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 were exempt from this order. This order was scheduled to go into effect on July 2, 2020 and remain in effect through July 31, 2020 unless extended. (7/1/20) Extended by <u>E.O. 55</u>, but then terminated by <u>E.O. 58</u> upon passage of Tenn. Code Ann. § 29-34-802
TX	<u>SB 6</u> provides civil liability immunity to a physician, health care provider, and first responder for an injury, including economic and noneconomic damages, or death arising from care, treatment, or failure to provide care or treatment relating to a pandemic disease or a disaster declaration related to a pandemic disease. Defense must prove by a preponderance of evidence that a pandemic disease or disaster declaration related to a pandemic disease was the producing cause of the care, treatment, or failure to provide care or treatment that allegedly caused the injury or that the individual who suffered injury or death was diagnosed or reasonably suspected to be infected with a pandemic disease at the time of the care, treatment, or failure to provide care or treatment. Applies to the screening, assessing, diagnosing, or treating an individual who is infected or suspected of being infected with a pandemic disease, as well as to the prescribing, administering, or dispensing of patients infected with a pandemic disease or suspected of it. Applies to diagnosing or treating individuals who are infected or suspected of being infected with a pandemic disease outside the normal area of the provider's specialty. Applies to health care services or decisions impacted by a pandemic (i.e., delays/cancellations of nonurgent or elective care, medical

	supply/workforce shortages, PPE use/nonuse, etc.). Does not alter the scope of practice of a physician, health care provider, or first responder under state law. Exempts acts or omissions arising from reckless conduct or intentional, willful, or wanton misconduct. Definition of health care provider includes facilities and volunteer providers. Immunity is in addition to other immunity or liability limits provided by law. Applies retroactively to claims that occurred during a period beginning on the date when the president of the United States or the governor makes a disaster declaration related to the pandemic and ending on the date that the declaration terminates. (6/14/21)
UT	Utah Code Annotated 58-13-2.7 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 <u>78B-3-403</u> 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. (4/22/20)
VA	8.01-225.03 stated 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 delivered care to or withheld care from a patient, resident, or person receiving services who was diagnosed as being or was believed to be infected with the COVID-19 virus would not be liable for any injury or wrongful death arising from the delivery or withholding of care when the emergency and subsequent conditions caused by the emergency resulted in a lack of resources, attributable to the disaster, that rendered 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 provided exemptions for gross negligence and willful misconduct. The immunity provided by this law was in addition to immunities provided in other state or federal law, including §§8.01-225 and §§44-146.23. The law applied to causes of action arising between March 12, 2020 and the termination of the state of emergency set forth in Executive Order 51. (10/13/20) Expired on 6/30/21 when the commonwealth's COVID-19 emergency ended. E.O. Number Sixty clarifies the application of state liability protections under <u>§8.01-255.01</u> and <u>§8.01-255.02</u> 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. (12.11.20)
VT	Add. 9 to E.O. 01-20 clarified that under protections afforded by <u>20 V.S.A. §20</u> , 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 went on to define key terms to help clarify the State's interpretation of the scope of the civil liability immunity provided under <u>20 V.S.A. §20</u> . (4/10/20) Expired on 5/15/21 when COVID-19 emergency ended.

WA	<p><u>S.B. 5271</u> expands the elements of proof necessary to demonstrate that injury resulted from the failure of a health care provider or facility to follow the accepted standard of care in acting or failing to act following the Governor's COVID-19 state of emergency. Factors to be considered include whether the act or omission (1) was in good faith base upon a government guidance, directive, or recommendation; (2) was due to a lack of resources (i.e., staff, supplies, etc.); and (3) such failure was a proximate cause of the alleged injury. If a health care provider presents the type of evidence above, the injured patient may present rebuttal evidence, so long as such evidence is otherwise admissible. Applies retroactively starting on February 29, 2020 and until the state of emergency is terminated. (5/10/21)</p>
WI	<p><u>2021 Wisconsin Act 4</u> - provided civil liability immunity to all business entities, including medical practices and facilities, for the death of or injury to any individual or damages caused by an act or omission resulting in or relating to exposure, directly or indirectly, to the novel coronavirus identified as SARS-CoV-2 or COVID-19 in the course of or through the performance or provision of the entity's functions or services. Exempted acts or omissions constituting reckless or wanton conduct or intentional misconduct. Applied retroactively beginning March 1, 2020 and expired on June 30, 2021. (2/25/21); Expired on 6/30/21.</p> <p><u>2019 Wisconsin Act 185</u> provided 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 had to be rendered in good faith and be consistent with state or federal guidance related to the public health emergency. Exempted deaths or injuries stemming from reckless or wanton conduct or intentional misconduct. The law also extended civil liability immunity to manufacturers, distributors and sellers of emergency medical supplies and equipment that donate or sell their product. These manufacturing entities were exempted 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) Expired on 3/31/21 when state supreme court invalidated the governor's emergency declaration.</p>
WV	<p><u>SB 277</u> 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)</p>
WY	<p><u>Ch. 118 (S.F. 19; 2021 Legislative Session)</u> provides civil liability immunity to any health care provider, person, or entity for damages in an action involving a COVID-19 liability claim unless the person seeking damages proves with clear and convincing evidence that the health care provider, person, or entity took actions that constitute gross negligence or willful or wanton misconduct. The exception must be pled with particularity. The definition of "COVID-19 liability claim" includes care/decisions directly related to COVID-19 and other care/decisions indirectly related to COVID-19 (i.e., inadequate PPP/workforce, delaying/canceling non-essential care). Effective upon enactment and applies to all actions or omissions that cause injury occurring on and after the effective date. (4/6/21)</p>

For more information, please contact our Government Relations Department at (301) 947-9000 or governmentrelations@MPLassociation.org.

6/2/22