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COVID-19 & Healthcare

A State-By-State Playbook

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COVID-19 & HEALTHCARE

A State-By-State Playbook

I. Introduction

We are already seeing instances of claims being made due to the COVID-19 pandemic. There are claims that institutions knew or should have known that there were clusters of infected patients and/or healthcare providers; claims relating to inadequate quarantine policies and procedures; claims relating to unavailable personal protective equipment ("PPE"); claims of inadequate medical supplies; claims of delay in diagnosis; claims of delay in treatment; claims regarding policies and procedures limiting visitors; claims of food contamination in health institutions' cafeterias; and claims of inadequate staffing and other resources.

We hope that this playbook will serve as a useful guide in both risk management and claims handling. Please note that the contents set forth below in the state-by-state section is updated as events continue to unfold. The hyper-links should be current.

II. Anticipated Claims

- Failure to develop and implement proper infectious disease Policy & Procedures
  - » Cleaning and disinfecting
  - » Wearing of PPE
  - » Sterilization
- Lack of medical equipment
- Failure to develop and implement screening policies
- Failure to properly / timely notify patients / patients representatives / employees / (and potentially even ancillary HC providers who visit) of a facility outbreak
- Patient triage and placement plans
- Co-habitation policies
- Inadequate quarantine policies
- HIPAA violations in disclosing patient identifying information of infected/exposed patients
- Understaffing and failure to develop mitigation plan in anticipation of shortages
- Staffing healthcare workers that are infected/exposed
- Failure to enforce government Orders for distancing
- Failure to enforce government Orders for facial covering
- Negligent Supervision
- Gross Negligence/Punitive Damages
- Violation of federal and state regulatory statutes
- Violation of various state resident/patient right statutes
- Class Actions
- Survivorship Claims

- Pain and Suffering
- Wrongful Death
- Loss of companionship or consortium
- Medical expenses
- Lost wages/Loss of future earning capacity
- Funeral and burial
- Emotional Distress
- Permanent Lung damage

III. Planning and Investigation

- Litigation Hold
  - » Who distributes Litigation Hold letter
  - » Who received Litigation Hold letters (not just healthcare providers – environmental services, housekeeping, cafeteria workers, transportation services, security, etc.)
  - » Contents of Litigation hold letters (to be reviewed by counsel)
  - » Warn healthcare workers that all of their Email messages may be required to being produced in litigation
  - » Think before you send

- Social Media
  - » All agents and employees to put social media on private
  - » All agents and employees to remove social media comments/statements regarding COVID-19 in their institution
  - » All agents and employees to remove social media comments/statements that could be interpreted as disparaging to institution
  - » Reminder that patient identifying information or photos on social media constitute HIPAA violation

- Policies and Procedures
  - » Obtain institution's policy and procedure on infection prevention
  - » Obtain institution's policy and procedure on infection control
  - » Obtain institution's policy and procedure on sterilization
  - » Obtain institution's policy and procedure for reprocessing single-use instruments
  - » Obtain institution's policy and procedure on PPE
  - » Obtain institution's policy and procedure on quarantine procedure
  - » Obtain institution's policy and procedure on co-habitation
  - » Obtain institution's policy and procedure on visitors
  - » Obtain institution's policy and procedure on disclosing infection outbreak
  - » Obtain institution's policy and procedure on staffing
  - » Obtain institution's policy and procedure for biohazardous waste
  - » Obtain institution's policy and procedure for work uniforms
  - » Obtain institution's policy and procedure for employee grooming and hygiene
  - » Obtain institution's policy and procedure for employee return after illness

- Notice
  - When did institution become aware of COVID-19 patient or healthcare worker at its institution
  - What did institution do in response
  - Investigation into potential transmission
  - When did investigation begin
  - What was done
  - Were all applicable prevention and control policies and procedure triggered
  - Did institution report infection/cluster infection to local or state governmental agencies as required

- Other
  - Were elective procedures canceled
  - Were staffing shortages addressed
  - Were there equipment and supplies shortages
  - When did exposed/infected employees return to work
  - What screening measures were undertaken prior to exposed/employees return to work

IV. Anticipated Defenses

- No breach in the standard of care
- No causation
- State Specific Immunity Statutes
- PREP Act Immunity (enacted February 4, 2020) Public Readiness and Emergency Preparedness Act for medical countermeasures against COVID-19.: https://www.phe.gov/Preparedness/legal/prepact/Pages/COVID19.aspx;

  - Pursuant to section 319F-3 of the Public Health Service Act (42 U.S.C. 247d-6d) [act provides] **liability immunity for activities related to medical countermeasures against COVID-19**.
  - These liability protections provide that, "[s]ubject to other provisions of [the PREP Act], a covered person shall be immune from suit and liability under federal and state law with respect to all claims for loss caused by, arising out of, relating to, or resulting from the administration to or use by an individual of a covered countermeasure if a Declaration has been issued with respect to such countermeasure." Emergency Use Authorization (EUA) under FDA guidance if applicable to product (See: https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization#2019-ncov)
  - FDA has EUA's for the following types of products re: Covid-19: In Vitro Diagnostic Products, High Complexity Molecular-Based Laboratory Developed Tests, Personal Protective Equipment, Ventilators and Other Medical Devices, Therapeutics
  - Manufacturers and other stakeholders are able to submit a request to FDA in order to have their products added to the EUA (See: https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization#covidothermeddev)

- EUA's can cover emergency use of medical devices, including alternative products used as medical devices, due to shortages during the COVID-19 outbreak.
- EUA's currently also cover use of hydroxychloroquine sulfate and chloroquine phosphate products in the treatment of Covid-19 even when a clinical trial is not available or feasible
- CDC has granted a right of reference to the performance data contained in CDC's EUA request (FDA submission number EUA200001) to any entity seeking an FDA EUA for a COVID-19 diagnostic device to fast track development of testing

- Contributory/comparative negligence
- Failure to mitigate damages
- Statute of Limitations

TIMELINE OF CMS ISSUED GUIDANCE

Effective Date	Topic/Key Points	Hyperlink to Full Guidance Memorandum
3/4/20	**Suspension of Survey Activities:** Beginning on 3/4/20, CMS suspended non-emergency survey inspections across the country. When a COVID-19 confirmed case or presumptive positive case is identified in a Medicare/ Medicaid certified provider, State Survey Agencies are requested to: (1) notify appropriate CMS regional office, (2) coordinate on initiating any Federal complaint or recertification survey of the impacted facility until CDC (or any other relevant Federal/State/Local response agencies) have cleared the facility for a survey, (3) ensure surveyors have all necessary PPE, and (4) Suspend any federal enforcement action for any deficiencies identified until reviewed and approved by the CMS Regional Office.	https://www.cms.gov/files/document/qso-20-12-all.pdf https://www.cms.gov/files/document/covid19survey-activity-suspension-faqs.pdf - FAQ https://www.cms.gov/newsroom/press-releases/cms-announces-actions-address-spread-coronavirus - Press Release
3/4/20	**Guidance for Infection Control and Prevention of COVID-19 for Patient Triage, Placement and Hospital Discharge:** Beginning on 3/4/20, the CMS provided guidance to Hospitals regarding appropriate actions to be taken to address potential and confirmed COVID-19 cases and to mitigate transmission upon screening/ discharge/ transfer. Specifically, it was recommended as of this date that Hospitals should identify visitors and patients at risk for COVID-19 before or immediately upon arrival. They should ask patients: (1) if they had fever or symptoms of respiratory infection, such as cough or sore throat, (2) about international travel within the last 14 days to restricted countries, and (3) whether they came into contact with someone known or suspected to have COVID-19. The same screening performed for visitors/patients was to be performed for hospital staff. If staff developed any symptoms, they were to: (1) stop work immediately, (2) put on a facemask immediately, (3) inform the hospital's infection preventionist (and inform which equipment they had previously used/who they came into contact with), (4) contact and follow the local health department recommendation for next steps re: testing, locations for treatment, etc., and (5) self isolate at home. The CMS also noted that certain patients with known/suspected COVID-19 may not require hospitalization and can ben managed at home if they are able to comply with monitoring requests. The decision to discharge a patient from the hospital should be made based on the clinical condition of the patient. Although COVID-19 patients with mild symptoms may be managed at home, the decision to discharge to home should consider the patient's ability to adhere to isolation recommendations as well as the potential risk for secondary transmission to household members with immunocompromising conditions.	https://www.cms.gov/files/document/qso-20-13-hospitalspdf.pdf-2

3/9/20	**Emergency Medical Treatment and Labor Act (EMTALA) Requirements and Implications related to COVID-19:** This guidance memorandum conveys information for hospitals (including critical access hospitals)/ Medicare and Medicaid providers regarding their compliance with the EMTALA. Specifically with regard to EMTALA Screening Obligations, every hospital with a dedicated emergency department is required to conduct an appropriate medical screening examination of all individuals who come to the emergency department, including individuals who are suspected of COVID-19 (regardless if they arrive by ambulance or are walk-ins). Every emergency department is expected to have the capability to apply the appropriate COVID-19 screening criteria when applicable, to immediately identify and isolate individuals who meet the screening criteria to be a potential COVID-19 victim, and to contact their state or local public health officials to determine next steps. Further with regard to EMTALA stabilization, transfer and recipient hospital obligations in the case of individuals with suspected or confirmed COVID-19, hospitals are expected to consider current guidance of the CDC and public health officials in determining whether they have the capability to provide appropriate isolation required for stabilizing treatment and/or to accept appropriate transfers. In the event of any EMTALA complaints alleging inappropriate transfers or refusal to accept appropriate transfers, CMS will take into consideration the public health guidance in effect at the time.	https://www.cms.gov/files/document/qso-20-15-emtala-requirements-and-coronavirus-0311-updated-003pdf.pdf-1
3/9/20	**Guidance for Infection Control and Prevention of COVID-19 by Hospice Agencies:** Beginning on 3/9/20, the CMS provided guidance to Hospice Agencies when providing care to their patients, who are at a greater risk for COVID-19 due to their underlying chronic or life-limiting medical conditions. In assessing a patient for COVID-19, it should be determined: (1) if they had fever or symptoms of respiratory infection, such as cough or sore throat, (2) if they traveled internationally within the last 14 days to restricted countries, and (3) whether they came into contact with someone known or suspected to have COVID-19. The same screening performed for patients is to be performed for hospice staff. If hospice staff developed any symptoms, they were to: (1) stop work immediately,(2) put on a facemask, (3) inform the hospital's infection preventionist (and inform which equipment they had previously used/who they came into contact with), (4) contact and follow the local health department recommendation for next steps re: testing, locations for treatment, etc., and (5) self isolate at home For hospice patients with known/suspected COVID-19 who remain in their homes, the CMS reemphasizes the CDC's recommendation that the patient is to stay separated from other people and animals in the home as much as possible, that the patient call-ahead before visiting his/her doctor, and that the patient wears a facemask in the presence of others when out of the patient room. If hospice care is provided in a nursing home, the CMS advises nursing homes that hospice workers should be allowed entry provided that hospice staff is following the appropriate CDC guidelines for Transmission-Based Precautions, and proper use of PPE.	https://www.cms.gov/files/document/qso-20-16-hospice.pdf
3/10/20	**Guidance for Infection Control and Prevention of COVID-19 in Home Health Agencies (HHAs):** Beginning on 3/10/20, the CMS provided guidance to HHAs providing care to patients in the home care setting and regarding mitigation of transmission during treatment/transfer to a higher level of care (when appropriate). When making a home visit, HHAs should identify patients at risk for having COVID-19 before or immediately upon arrival to the home. They should ask patients about: (1) international travel in the last 14 days, (2) signs or symptoms of respiratory infection, such as fever/cough/sore throat, (3) if they came into contact with someone with COVID-19 in the past 14 days, and (4) whether that patient resides in a community where COVID-19 is spreading. HHA staff are expected to utilize PPE in home visits if COVID-19 is confirmed or presumed. During a home health agency survey, when a COVID-19 confirmed or suspected case is identified, the surveyors will confirm that the agency has reported the case to the public health officials as required by state law. The state should then notify the appropriate CMS Regional Office of the HHA who has been identified as providing services to a person with confirmed/suspected COVID-19.	https://www.cms.gov/files/document/qso-20-18-hha.pdf

3/10/20	**Guidance for use of Certain Industrial Respirators by Health Care Personnel:** This memo clarifies the application of CMS policies in light of recent CDC and FDA guidance expanding the types of facemasks healthcare workers may use in situations involving COVID-19 and other respiratory infections. Beginning on 3/10/20, CMS surveyors will consider the following recommendations by the CDC to determine if health care workers are complying with infection control protocols in their care of patients with known/ suspected COVID-19: (1) Based on local and regional situational analysis of PPE supplies, facemasks are an acceptable temporary alternative when the supply chain of respirators cannot meet the demand. During this time, available respirators should be prioritized for procedures that are likely to generate respiratory aerosols, which would pose the highest exposure risk to health care providers, (2) when the supply chain is restored, facilities with a respiratory protection program should return the use of respirators for patients with known or suspected COVID-19, (3) Eye protection, medical gown, and gloves continue to be recommended, (4) Patients with known/suspected COVID-19 should be cared for in a single-person room with the door closed, (5) updated information based on currently available information about COVID-19 and the current situation in USA [which includes cases of community transmission, infections identified in health care professionals, shortages of facemasks, etc.], and (6) increased emphasis on early identification and implementation of source control (i.e. putting a face mask on patients presenting with symptoms of respiratory infection).	https://www.cms.gov/files/document/qso-20-17-all.pdf
3/10/20	**Guidance for Infection Control and Prevention of COVID-19 in Dialysis Facilities:** As of 3/10/20 the CMS provided guidance to dialysis facilities to help them focus their infection control and prevention practices to prevent the transmission of COVID-19. Dialysis facilities should screen patients, staff, and visitors for the following: (1) signs or symptoms of respiratory infection, such as fever, cough, shortness of breath or sore throat, (2) contact with someone with or under investigation for COVID-19, (3) international travel within last 14 days to counties with widespread spread, and (4) residing in a community where community-based spread of COVID-19 is spreading. Facilities should have space in waiting areas for ill patients to sit separated from other patients by at least 6 feet. Medically-stable patients who do not have other care needs have the option to wait in a personal vehicle or outside the healthcare facility where they can be contacted by mobile phone when it is their turn to be seen.	https://www.cms.gov/files/document/qso-20-19-esrd.pdf

3/13/20	**Guidance for Infection Control and Prevention of COVID-19 in Nursing Homes** (including revised guidance for visitation[1]): Beginning on 3/13/20, all nursing home facilities were instructed to restrict visitation of all visitors and non-essential health care personnel, except for certain compassionate care situations, such as end-of-life situations. In those cases visitors will be limited to a specific room only. Facilities are expected to notify potential visitors to defer visitation until further notices (through signage, calls, letters, etc.). *Note: If a state implements actions that exceed CMS requirements (i.e. such as a ban on all visitation through a governor's executive order, a facility would not be out of compliance with CMS' requirements.) Also effective as of 3/13/20, it was recommended that nursing home facilities undertake the following measures: (1) cancelling communal dining and group activities amongst residents, (2) implement active screening of residents and staff for fever and respiratory symptoms, (3) remind residents to practice social distancing and perform frequent hand hygiene, (4) screen all staff at the beginning of their shift for fever and respiratory symptoms (i.e. take their temperature, document absence of shortness of breath, new or change in cough and sore throat. If they are ill, have them put on a facemask and self-isolate at home), (5) identify staff that work at multiple facilities and actively screen and restrict them appropriately, and (6) advise visitors/any individuals who entered facility (i.e. hospice staff), to monitor for signs and symptoms for at least 14 days after existing facility. Per the CDC, and as emphasized by the CMS, prompt detection, triage and isolation of potentially infected residents are essential to prevent unnecessary exposure among residents, healthcare personnel, and visitors to the facility. Therefore, facilities should consider frequent monitoring for potential symptoms of respiratory infection as needed throughout the day. Upon confirming/suspecting a resident of having COVID-19, the nursing home facility should contact their local health department. Facilities without an airborne infection isolation room (AIIR) are not required to transfer the resident assuming: (1) the resident does not require a higher level of care, and (2) the facility can adhere to the rest of the infection prevention and control practices recommended for caring for a resident with COVID-19. The CMS emphasizes that nursing homes can accept a resident diagnosed with COVID-19 so long as the facility can follow CDC guidance for Transmission-Based Precautions. *Note: Nursing homes should admit any individuals that they would normally admit to their facility, including individuals from hospitals where a case of COVID-19 was/is present. If possible, the facility should dedicate a unit/wing exclusively for any residents coming or returning from the hospital. This can serve as a step-down unit where they remain for 14 days with no symptoms (instead of integrating as usual on short-term rehab floor, or returning to long-stay original room).	https://www.cms.gov/files/document/qso-20-14-nh-revised.pdf

1 As of 4/16/20, the CMS website only provided the Revised Guidance version for Nursing Home Facilities, which became effective on 3/13/20.

3/30/20	**Guidance for Infection Control and Prevention of COVID-19 in Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IIDs) and Psychiatric Residential Treatment Facilities (PRTFs):** On 3/30/20 the CMS provided additional guidance to ICFs for individuals with IIDs to assist them improve their infection control and prevention practices to prevent the transmission of COVID-19, including revised guidelines for visitation. President Trump's declaration of a national emergency due to COVID-19 on March 13, 2020, authorized the CMS to take proactive steps through emergency waivers and modifications under section 1135 of the Social Security Act. As a result of this authority, the CMS may issue blanket waivers of certain requirements and will review other individual waiver requests on a case by case basis. An ICF/IID facility may request a state specific 1135 waiver as a potential solution for staffing shortages, along with other requests. For clients/residents that have been found positive of COVID-19, the ICF/IID plan and Individual Program Plan should include what specific procedures and steps should be taken for quarantine of the client while also taking every step reasonable to protect the rights, safety and health of the infected clients/residents, as well as those of the staff and other clients/residents. An ICF/IID or PRTF can accept a client/resident diagnosed with COVID-19 and still operate under transmission-based precautions for COVID-19 as long as the facility can follow CDC guidance. *Note: ICF/IIDs and PRTFs should admit any individuals that they would normally admit to their facility who are not symptomatic, including individuals from hospitals where a case of COVID-19 was/is present if they are able to adhere to infection prevention and control practices recommended by the CDC. If possible, facilities should dedicate a wing or room for any resident coming or returning from the hospital. This can serve as a step-down unit where they remain for 14 days with no symptoms.	https://www.cms.gov/files/document/qso-20-23-icf-iid-prtf.pdf 1135waiver@cms.hhs.gov – to submit a case-specific waiver
3/30/20	**Guidance for Infection Control and Prevention of COVID-19 in Outpatient Settings:** CMS regulations and guidance support ambulatory surgical centers (ASCs), Community Mental Health Centers (CMHC's), Comprehensive Outpatient Rehab Facilities (CORFs), Outpatient Physical Therapy or Speech Therapy Services (OPTs), Rural Health Clinics (RHCs) and Federally Qualified Health Centers (FQHCs). This guidance memorandum discusses recommendations to mitigate transmission including screening, restricting visitors, cleaning and disinfection, and possible closures. Supply scarcity guidance and FDA recommendations are also included within this memo. The CMS emphasizes in this memorandum that during environmental cleaning procedures, personnel should wear appropriate PPE to prevent exposure to infectious agents or chemicals (PPE such as gloves, gowns, masks, respirators, and eye protection). Environmental surfaces in patient areas should be cleaned and disinfected on a daily basis, using an appropriate EPA registered disinfectant. CDC guidelines recommend delaying and rescheduling all elective and non-urgent visits/admissions to preserve staff, PPE, and patient care supplies. Additionally, on 3/18/20 the CMS released a statement that all elective surgeries, non-essential medical, surgical and dental procedures be delayed during the COVID-19 outbreak.	https://www.cms.gov/files/document/qso-20-22-asc-corf-cmhc-opt-rhc-fqhcs.pdf https://www.cms.gov/newsroom/press-releases/cms-releases-recommendations-adult-elective-surgeries-non-essential-medical-surgical-and-dental - statement
3/30/20	**Guidance for Infection Control and Prevention of COVID-19 in Dialysis Facilities (revised to include guidance related to 1135 waivers and Special Purpose Renal Dialysis Facilities):** This guidance memorandum was revised as of 3/30/20 to indicate that there are various types of flexibility in dialysis care delivery models using current and new authorities available via the 1135 waiver requests. Specifically, dialysis services already certified for Home Training and Support services may consider providing home dialysis services to residents of Long Term Care facilities in agreement with the patient's nephrologist and patient/patient's representative. Additionally, dialysis facilities may choose to add Home Dialysis Training and Support services to an existing Medicare certified facility. More so, dialysis facilities may now establish a Special Purpose Renal Dialysis facility with CMS approval.	https://www.cms.gov/files/document/qso-20-19-esrd-revised.pdf

3/30/20	**Emergency Medical Treatment and Labor Act (EMTALA) Requirements and Implications related to COVID-19 (revised for clarification re: drive-through testing sites):** This guidance memo was revised on 3/30/20 to include additional guidance related to the establishment of drive-through testing sites, clarification of expectations in relation to the triage process and the medical screening examination, and use of telehealth. Most notably, the CMS clarifies in this guidance memorandum that there is no EMTALA obligation at testing drive through sites, even if hospital personnel are performing the testing (i.e. drive through testing sites that have been established for COVID-19 testing purposes only do not have EMTALA implications).	https://www.cms.gov/files/document/qso-20-15-hospital-cah-emtala-revised.pdf
3/30/20	**Guidance for Infection Control and Prevention of COVID-19 in Hospitals, Psych. Hospitals, and Critical Access Hospitals (revised to provide limits to visitation and increased availability of 1135 waivers – with retroactive date of 3/1/20):** This memo was revised to include additional guidance regarding the limits to visitation and availability of 1135 waivers. Specifically, the CMS now clarifies that under section 1135 of the Social Security Act, CMS has waived a number of hospital requirements following the President's declaration of a national state of emergency – resulting in increased hospital capacity, establishing alternate care sites, and removing administrative burdens. (a full list of the extensive waivers can be found at https://www.cms.gov/files/document/covid19-emergency-declaration-health-care-providers-fact-sheet.pdf) More so, all of these blanket waivers have a retroactive date of 3/1/20 through the end of the emergency declaration. Additionally, it was recommended in this revised guidance memorandum by the CMS that healthcare facilities should set limitations on visitation (i.e. by restricting the number of visitors per patient, encouraging visitors to communicate with patients via phone/social media, etc.)	https://www.cms.gov/files/document/qso-20-13-hospitals-cahs-revised.pdf
4/19/20	**UPCOMING REQUIREMENTS FOR NOTIFICATION OF CONFIRMED COVID-19 AMONG RESIDENTS AND STAFF IN NURSING HOMES** This memo reinforces CMS existing requirement that nursing homes must report communicable disease, healthcare associated infections, and potential outbreaks to State and Local health departments. In rulemaking to follow, CMS is requiring facilities to report this data to the CDC in a standardized format and frequency as defined by CMS and CDC. Failure to report cases of residents or staff who have confirmed COVID-19 could result in enforcement action. **Transparency**: CMS will also be setting forth new requirements for facilities to notify residents and their representatives directly. At minimum, nursing homes must inform residents and their representatives within 12 hours of a single confirmed COVID-19 infection or three or more residents/staff with new onset of respiratory symptoms within 72 hours. Updates to residents and representatives must also be provided weekly or each subsequent time of a confirmed COVID-19 case and/or whenever three or more residents/staff exhibit new onset of respiratory symptoms within 72 hours. Facilities will include information on mitigating actions implemented to prevent or reduce the risk of transmission including if normal operations in the nursing home will be altered. Failure to report or provide timely notification could result in an enforcement action by CMS.	https://www.cms.gov/files/document/qso-20-26-nh.pdf

CDC COVID TIMELINE

FEBRUARY 21, 2020

Healthcare Professional Preparedness Checklist For Transport and Arrival of Patients With Confirmed or Possible COVID-19 (https://www.cdc.gov/coronavirus/2019-ncov/hcp/hcp-personnel-checklist.html)

See Checklist: https://www.cdc.gov/coronavirus/2019-ncov/downloads/hcp-preparedness-checklist.pdf

MARCH 6, 2020

Release of Stockpiled N95 Filtering Facepiece Respirators Beyond the Manufacturer-Designated Shelf Life: Considerations for the COVID-19 Response (https://www.cdc.gov/coronavirus/2019-ncov/hcp/release-stockpiled-N95.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Frelease-stockpiled-N95.html)

Synopsis: CDC/NIOSH believes the following products, despite being past their manufacturer-designated shelf life, should provide the expected level of protection to the user if the stockpile conditions have generally been in accordance with the manufacturer-recommended storage conditions and an OSHA-compliant respiratory protection program is used by employers. In alphabetical order, these models are:

- 3M 1860
- 3M 1870
- 3M 8210
- 3M 9010
- 3M 8000
- Gerson 1730
- Medline/Alpha Protech NON27501
- Moldex 1512
- Moldex 2201

The article further includes other models may also be effective due to their similarity of the above mentioned identified models.

MARCH 7, 2020

Interim U.S. Guidance for Risk Assessment and Public Health Management of Healthcare Personnel with Potential Exposure in a Healthcare Setting to Patients with Coronavirus Disease 2019 (COVID-19) (https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assesment-hcp.html)

Synopsis: These Guidelines provide a Table identifying the risk to Health Care Professionals (HCP) who come into prolonged contact with patients with COVID-19 based on whether the patient's face was covered or not.

Part III goes on to provide recommendations for monitoring of these HCP as defined in Section I (self-monitoring, active monitoring, and self-monitoring with delegated supervision).

UPDATE APRIL 12, 2020 - changed the period of exposure risk from "onset of symptoms" to "48 hours before symptom onset."

Given the ongoing transmission of COVID-19 in communities across the United States and the role that asymptomatic and pre-symptomatic individuals with COVID-19 play in transmission, the feasibility and benefits of formal contact tracing for exposures in healthcare settings are likely limited and this guidance is being archived. No further updates are planned.

Healthcare facilities should consider foregoing contact tracing for exposures in a healthcare setting in favor of universal source control for healthcare personnel (HCP) and screening for fever and symptoms of COVID-19 before every shift.

MARCH 11, 2020

Get Your Clinic Ready for Coronavirus Disease 2019 (COVID-19) (https://www.cdc.gov/coronavirus/2019-ncov/hcp/clinic-preparedness.html)

Synopsis: See webpage for checklist.

MARCH 14, 2020

Strategies to Optimize the Supply of PPE and Equipment (https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/index.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fhcp%2Fhealthcare-supply-ppe.html)

Synopsis:

- **All U.S. healthcare facilities should begin using PPE contingency strategies now.**
    - » Maximize use of engineering controls, such as barriers and maintained ventilation systems, and administrative controls, such as altering work practices to minimize patient contacts.
    - » Cancel elective and non-urgent procedures/appointments.
    - » Reserve PPE for HCP and replace PPE normally used for source control with other barrier precautions such as tissues.

- » Use re-usable PPE that can be reprocessed.
- » Use PPE beyond the manufacturer-designated shelf life for training.
- » Consider allowing HCP to extend use of respirators, facemasks, and eye protection, beyond a single patient contact.

- **U.S. healthcare facilities experiencing PPE shortages may need to consider crisis capacity strategies, which must be carefully planned before implementation.** The effectiveness of crisis strategies is uncertain and they may pose a risk for transmission between HCP and patients.
  - » Consider using intact PPE that is beyond the manufacturer-designated shelf life for patient care activities.
  - » Carefully prioritize PPE use for selected care activities. This could include reserving sterile gowns and gloves for urgent sterile patient procedures, such as surgery, and reserving respirators for aerosol-generating procedures and patient care with airborne transmitted disease risks, like tuberculosis, measles, and varicella.
  - » If no commercial PPE is available, carefully consider if alternative approaches will reduce the risk of HCP exposure and are safe for patient care.

- **As PPE becomes available, healthcare facilities should promptly resume standard practices.**

Evaluating and Testing Persons for Coronavirus Disease 2019 (COVID-19) (https://www.cdc.gov/coronavirus/2019-ncov/hcp/clinical-criteria.html)

Synopsis: Clinicians should use their judgment to determine if a patient has signs and symptoms compatible with COVID-19 and whether the patient should be tested. Most patients with confirmed COVID-19 have developed fever[1] and/or symptoms of acute respiratory illness (e.g., cough, difficulty breathing).

See attached PDF for priority list: https://www.cdc.gov/coronavirus/2019-ncov/downloads/priority-testing-patients.pdf

UPDATE MARCH 24, 2020- Limited information is available to characterize the spectrum of clinical illness associated with coronavirus disease 2019 (COVID-19). No vaccine or specific treatment for COVID-19 is available; care is supportive.

The CDC clinical criteria for considering testing for COVID-19 have been developed based on what is known about COVID-19 and are subject to change as additional information becomes available.

MARCH 17, 2020

Strategies for Optimizing the Supply of Isolation Gowns (https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/isolation-gowns.html)

Synopsis: These guidelines breakdown strategies for healthcare facilities in three different scenarios, (1) Conventional Capacity; (2) Contingency Capacity; and (3) Crisis Capacity.

The following contingency and crisis strategies are based upon these assumptions:

1. Facilities understand their current isolation gown inventory and supply chain
2. Facilities understand their isolation gown utilization rate
3. Facilities are in communication with local healthcare coalitions, federal, state, and local public health partners (e.g., public health emergency preparedness and response staff) regarding identification of additional supplies
4. Facilities have already implemented other engineering and administrative control measures including:
    - » Reducing the number of patients going to the hospital or outpatient settings
    - » Excluding HCP not directly involved in patient care
    - » Reducing face-to-face HCP encounters with patients
    - » Excluding visitors to patients with confirmed or suspected COVID-19
    - » Cohorting patients and HCP
    - » Maximizing use of telemedicine
5. Facilities have provided HCP with required education and training, including having them demonstrate competency with donning and doffing, with any PPE ensemble that is used to perform job responsibilities, such as provision of patient care

Contingency Capacity Strategies

Selectively cancel elective and non-urgent procedures and appointments for which a gown is typically used by HCP.

Shift gown use towards cloth isolation gowns.

Reusable (i.e., washable) gowns are typically made of polyester or polyester-cotton fabrics. Gowns made of these fabrics can be safely laundered according to routine procedures and reused. Care should be taken to ensure that HCP do not touch outer surfaces of the gown during care.

- Laundry operations and personnel may need to be augmented to facilitate additional washing loads and cycles
- Systems are established to routinely inspect, maintain (e.g., mend a small hole in a gown, replace missing fastening ties), and replace reusable gowns when needed (e.g., when they are thin or ripped)

Consider the use of coveralls.

Coveralls typically provide 360-degree protection because they are designed to cover the whole body, including the back and lower legs, and sometimes the head and feet as well. While the material and seam barrier properties are essential for defining the protective level, the coverage provided by the material used in the garment design, as well as certain features including closures, will greatly affect the protective level. HCP unfamiliar with the use of coveralls must be trained and practiced in their use, prior to using during patient care. In the United States, the NFPA 1999 standardexternal icon specifies the minimum design, performance, testing, documentation, and certification requirements for new single-use and new multiple-use emergency medical operations protective clothing, including coveralls for HCP.

Use of expired gowns beyond the manufacturer-designated shelf life for training.

The majority of isolation gowns do not have a manufacturer-designated shelf life. However, consideration can be made to using gowns that do and are past their manufacturer-designated shelf life. If there is no date available on the gown label or packaging, facilities should contact the manufacturer.

Use gowns or coveralls conforming to international standards.

Current guidelines do not require use of gowns that conform to any standards. In times of shortages, healthcare facilities can consider using international gowns and coveralls. Gowns and coveralls that conform to international standards, including with EN 13795 and EN14126, could be reserved for activities that may involve moderate to high amounts of body fluids.

Crisis Capacity Strategies

Cancel all elective and non-urgent procedures and appointments for which a gown is typically used by HCP.

Extended use of isolation gowns.

Consideration can be made to extend the use of isolation gowns (disposable or cloth) such that the same gown is worn by the same HCP when interacting with more than one patient known to be infected with the same infectious disease when these patients housed in the same location (i.e., COVID-19 patients residing in an isolation cohort). This can be considered only if there are no additional co-infectious diagnoses transmitted by contact (such as *Clostridioides difficile*) among patients. If the gown becomes visibly soiled, it must be removed and discarded as per usual practicespdf icon.

Re-use of cloth isolation gowns.

Disposable gowns are not typically amenable to being doffed and re-used because the ties and fasteners typically break during doffing. Cloth isolation gowns could potentially be untied and retied and could be considered for re-use without laundering in between.

In a situation where the gown is being used as part of standard precautions to protect HCP from a splash, the risk of re-using a non-visibly soiled cloth isolation gown may be lower. However, for care of patients with suspected or confirmed COVID-19, HCP risk from re-use of cloth isolation gowns without laundering among (1) single HCP caring for multiple patients using one gown or (2) among multiple HCP sharing one gown is unclear. The goal of this strategy is to minimize exposures to HCP and not necessarily prevent transmission between patients. Any gown that becomes visibly soiled during patient care should be disposed of and cleaned.

Prioritize gowns.

Gowns should be prioritized for the following activities:

- During care activities where splashes and sprays are anticipated, which typically includes aerosol generating procedures
- During the following high-contact patient care activities that provide opportunities for transfer of pathogens to the hands and clothing of healthcare providers, such as:
  - » Dressing, bathing/showering, transferring, providing hygiene, changing linens, changing briefs or assisting with toileting, device care or use, wound care

Surgical gowns should be prioritized for surgical and other sterile procedures. Facilities may consider suspending use of gowns for endemic multidrug resistant organisms (e.g., MRSA, VRE, ESBL-producing organisms).

When No Gowns Are Available

Consider using gown alternatives that have not been evaluated as effective.

In situation of severely limited or no available isolation gowns, the following pieces of clothing can be considered as a last resort for care of COVID-19 patients as single use. However, none of these options can be considered PPE, since their capability to protect HCP is unknown. Preferable features include long sleeves and closures (snaps, buttons) that can be fastened and secured.

- Disposable laboratory coats
- Reusable (washable) patient gowns
- Reusable (washable) laboratory coats
- Disposable aprons
- Combinations of clothing: Combinations of pieces of clothing can be considered for activities that may involve body fluids and when there are no gowns available:
  - » Long sleeve aprons in combination with long sleeve patient gowns or laboratory coats
  - » Open back gowns with long sleeve patient gowns or laboratory coats
  - » Sleeve covers in combination with aprons and long sleeve patient gowns or laboratory coats

Reusable patient gowns and lab coats can be safely laundered according to routine procedures.

- Laundry operations and personnel may need to be augmented to facilitate additional washing loads and cycles
- Systems are established to routinely inspect, maintain (e.g., mend a small hole in a gown, replace missing fastening ties) and replace reusable gowns when needed (e.g., when they are thin or ripped)

Strategies for Optimizing the Supply of Facemasks
(https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/face-masks.html)

Synopsis: These guidelines breakdown strategies for healthcare facilities in three different scenarios, (1) Conventional Capacity; (2) Contingency Capacity; and (3) Crisis Capacity.

The following contingency and crisis strategies are based upon these assumptions:

1. Facilities understand their facemask inventory and supply chain
2. Facilities understand their facemask utilization rate
3. Facilities are in communication with local healthcare coalitions, federal, state, and local public health partners (e.g., public health emergency preparedness and response staff) regarding identification of additional supplies.
4. Facilities have already implemented other engineering and administrative control measures including:
    - » Reducing the number of patients going to the hospital or outpatient settings
    - » Excluding HCP not essential for patient care from entering their care area
    - » Reducing face-to-face HCP encounters with patients
    - » Excluding visitors to patients with confirmed or suspected COVID-19
    - » Cohorting patients and HCP
    - » Maximizing use of telemedicine
5. Facilities have provided HCP with required education and training, including having them demonstrate competency with donning and doffing, with any PPE ensemble that is used to perform job responsibilities, such as provision of patient care

Contingency Capacity Strategies

Selectively cancel elective and non-urgent procedures and appointments for which a facemask is typically used by HCP.

Remove facemasks for visitors in public areas.

Healthcare facilities can consider removing all facemasks from public areas. Facemasks can be available to provide to symptomatic patients upon check in at entry points. All facemasks should be placed in a secure and monitored site. This is especially important in high-traffic areas like emergency departments.

Implement extended use of facemasks.

Extended use of facemasks is the practice of wearing the same facemask for repeated close contact encounters with several different patients, without removing the facemask between patient encounters.

- The facemask should be removed and discarded if soiled, damaged, or hard to breathe through.
- HCP must take care not to touch their facemask. If they touch or adjust their facemask they must immediately perform hand hygiene.
- HCP should leave the patient care area if they need to remove the facemask.

Restrict facemasks to use by HCP, rather than patients for source control.

Have patients with symptoms of respiratory infection use tissues or other barriers to cover their mouth and nose.

Crisis Capacity Strategies

Cancel all elective and non-urgent procedures and appointments for which a facemask is typically used by HCP.

Use facemasks beyond the manufacturer-designated shelf life during patient care activities.

If there is no date available on the facemask label or packaging, facilities should contact the manufacturer. The user should visually inspect the product prior to use and, if there are concerns (such as degraded materials or visible tears), discard the product.

Implement limited re-use of facemasks.

Limited re-use of facemasks is the practice of using the same facemask by one HCP for multiple encounters with different patients but removing it after each encounter. As it is unknown what the potential contribution of contact transmission is for SARS-CoV-2, care should be taken to ensure that HCP do not touch outer surfaces of the mask during care, and that mask removal and replacement be done in a careful and deliberate manner.

- The facemask should be removed and discarded if soiled, damaged, or hard to breathe through.
- Not all facemasks can be re-used.
  - » Facemasks that fasten to the provider via ties may not be able to be undone without tearing and should be considered only for extended use, rather than re-use.
  - » Facemasks with elastic ear hooks may be more suitable for re-use.
- HCP should leave patient care area if they need to remove the facemask. Facemasks should be carefully folded so that the outer surface is held inward and against itself to reduce contact with the outer surface during storage. The folded mask can be stored between uses in a clean sealable paper bag or breathable container.

Prioritize facemasks for selected activities such as:

- For provision of essential surgeries and procedures
- During care activities where splashes and sprays are anticipated
- During activities where prolonged face-to-face or close contact with a potentially infectious patient is unavoidable
- For performing aerosol generating procedures, if respirators are no longer available

When No Facemasks Are Available, Options Include

Exclude HCP at higher risk for severe illness from COVID-19 from contact with known or suspected COVID-19 patients.

During severe resource limitations, consider excluding HCP who may be at higher risk for severe illness from COVID-19, such as those of older age, those with chronic medical conditions, or those who may be pregnant, from caring for patients with confirmed or suspected COVID-19 infection.

Designate convalescent HCP for provision of care to known or suspected COVID-19 patients.
It may be possible to designate HCP who have clinically recovered from COVID-19 to preferentially provide care for additional patients with COVID-19. Individuals who have recovered from COVID-19 infection may have developed some protective immunity, but this has not yet been confirmed.

Use a face shield that covers the entire front (that extends to the chin or below) and sides of the face with no facemask.

Consider use of expedient patient isolation rooms for risk reduction.

Portable fan devices with high-efficiency particulate air (HEPA) filtration that are carefully placed can increase the effective air changes per hour of clean air to the patient room, reducing risk to individuals entering the room without respiratory protection. NIOSH has developed guidance for using portable HEPA filtration systems to create expedient patient isolation rooms. The expedient patient isolation room approach involves establishing a high-ventilation-rate, negative pressure, inner isolation zone that sits within a "clean" larger ventilated zone.

Consider use of ventilated headboards

NIOSH has developed the ventilated headboard that draws exhaled air from a patient in bed into a HEPA filter, decreasing risk of HCP exposure to patient-generated aerosol. This technology consists of lightweight, sturdy, and adjustable aluminum framing with a retractable plastic canopy. The ventilated headboard can be deployed in combination with HEPA fan/filter units to provide surge isolation capacity within a variety of environments, from traditional patient rooms to triage stations, and emergency medical shelters.

HCP use of homemade masks:

In settings where facemasks are not available, HCP might use homemade masks (e.g., bandana, scarf) for care of patients with COVID-19 as a last resort. However, homemade masks are not considered PPE, since their capability to protect HCP is unknown. Caution should be exercised when considering this option. Homemade masks should ideally be used in combination with a face shield that covers the entire front (that extends to the chin or below) and sides of the face.

Strategies for Optimizing the Supply of Eye Protection
(https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/eye-protection.html)

Synopsis: These guidelines breakdown strategies for healthcare facilities in three different scenarios, (1) Conventional Capacity; (2) Contingency Capacity; and (3) Crisis Capacity.

The following contingency and crisis strategies are based upon these assumptions:

1. Facilities understand their eye protection inventory and supply chain
2. Facilities understand their eye protection utilization rate
3. Facilities are in communication with local healthcare coalitions, federal, state, and local public health partners (e.g., public health emergency preparedness and response staff) regarding identification of additional supplies
4. Facilities have already implemented other engineering and administrative control measures including:
    - » Reducing the number of patients going to the hospital or outpatient settings
    - » Excluding HCP not essential for patient care from entering their care area
    - » Reducing face-to-face HCP encounters with patients
    - » Excluding visitors to patients with confirmed or suspected COVID-19
    - » Cohorting patients and HCP
    - » Maximizing use of telemedicine
5. Facilities have provided HCP with required education and training, including having them demonstrate competency with donning and doffing, with any PPE ensemble that is used to perform job responsibilities, such as provision of patient care

Contingency Capacity Strategies

Selectively cancel elective and non-urgent procedures and appointments for which eye protection is typically used by HCP.

Shift eye protection supplies from disposable to re-usable devices (i.e., goggles and reusable face shields).

- Consider preferential use of powered air purifying respirators (PAPRs) or full-face elastomeric respirators which have built-in eye protection.
- Ensure appropriate cleaning and disinfection between users if goggles or reusable face shields are used.

Implement extended use of eye protection.

Extended use of eye protection is the practice of wearing the same eye protection for repeated close contact encounters with several different patients, without removing eye protection between patient encounters. Extended use of eye protection can be applied to disposable and reusable devices.

- Eye protection should be removed and reprocessed if it becomes visibly soiled or difficult to see through.
  - » If a disposable face shield is reprocessed, it should be dedicated to one HCP and reprocessed whenever it is visibly soiled or removed (e.g., when leaving the isolation area) prior to putting it back on. See protocol for removing and reprocessing eye protection below.
- Eye protection should be discarded if damaged (e.g., face shield can no longer fasten securely to the provider, if visibility is obscured and reprocessing does not restore visibility).
- HCP should take care not to touch their eye protection. If they touch or adjust their eye protection they must immediately perform hand hygiene.
- HCP should leave patient care area if they need to remove their eye protection. See protocol for removing and reprocessing eye protection below.

Crisis Capacity Strategies

Cancel all elective and non-urgent procedures and appointments for which eye protection is typically used by HCP.

Use eye protection devices beyond the manufacturer-designated shelf life during patient care activities.

If there is no date available on the eye protection device label or packaging, facilities should contact the manufacturer. The user should visually inspect the product prior to use and, if there are concerns (such as degraded materials), discard the product.

Prioritize eye protection for selected activities such as:

- During care activities where splashes and sprays are anticipated, which typically includes aerosol generating procedures.
- During activities where prolonged face-to-face or close contact with a potentially infectious patient is unavoidable.

Consider using safety glasses (e.g., trauma glasses) that have extensions to cover the side of the eyes.

Exclude HCP at higher risk for severe illness from COVID-19 from contact with known or suspected COVID-19 patients.

- During severe resource limitations, consider excluding HCP who may be at higher risk for severe illness from COVID-19, such as those of older age, those with chronic medical conditions, or those who may be pregnant, from caring for patients with confirmed or suspected COVID-19 infection.

Designate convalescent HCP for provision of care to known or suspected COVID-19 patients.

- It may be possible to designate HCP who have clinically recovered from COVID-19 to preferentially provide care for additional patients with COVID-19. Individuals who have recovered from COVID-19 infection may have developed some protective immunity, but this has not yet been confirmed.

Selected Options for Reprocessing Eye Protection

Adhere to recommended manufacturer instructions for cleaning and disinfection.

When manufacturer instructions for cleaning and disinfection are unavailable, such as for single use disposable face shields, consider:

1. While wearing gloves, carefully wipe the *inside, followed by the outside* of the face shield or goggles using a clean cloth saturated with neutral detergent solution or cleaner wipe.
2. Carefully wipe the *outside* of the face shield or goggles using a wipe or clean cloth saturated with EPA-registered hospital disinfectant solution.
3. Wipe the outside of face shield or goggles with clean water or alcohol to remove residue.
4. Fully dry (air dry or use clean absorbent towels).
5. Remove gloves and perform hand hygiene.

MARCH 23, 2020

Discontinuation of Transmission-Based Precautions and Disposition of Patients with COVID-19 in Healthcare Settings (Interim Guidance) (https://www.cdc.gov/coronavirus/2019-ncov/hcp/disposition-hospitalized-patients.html)

Synopsis: Outlines the guidelines for discontinuation of Transmission Based Precautions and Discharge of Patients with COVID-19. Briefly, Transmission Based Precautions are precautions Health Care Providers utilize when interacting with patients with COVID-19 or suspected of having COVID-19. The guidelines further outline a "Test based Strategy" and a Non-Test Based Strategy" for the discontinuation of Transmission Based Precautions. The Test-Based Strategy relies on resolution of symptoms and other improvement as well as a negative test result for COVID-19. Non-Test Based Strategy does not include an actual test but on other information such as time since fever-reducing medications and passage of time since end of symptoms.

The Test-Based Strategy is preferred for hospitalized patients, individuals who are severely immunocompromised, and patients who are being transferred to a long term care or assisted living facility.

If discharged to a long-term care or assisted living facility, AND

- Transmission-Based Precautions *are still required*, they should go to a facility with an ability to adhere to infection prevention and control recommendations for the care of COVID-19 patients. Preferably, the patient would be placed in a location designated to care for COVID-19 residents.
- Transmission-Based Precautions *have been discontinued,* but the patient has persistent symptoms from COVID-19 (e.g., persistent cough), they should be placed in a single room, be restricted to their room, and wear a facemask during care activities until all symptoms are completely resolved or until 14 days after illness onset, whichever is longer.
- Transmission-Based Precautions *have been discontinued* and the patient's symptoms have resolved, they do not require further restrictions, based upon their history of COVID-19.

MARCH 25, 2020

Collection and Submission of Postmortem Specimens from Deceased Persons with Known or Suspected COVID-19, March 2020 (Interim Guidance) (https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-postmortem-specimens.html)

Synopsis: These guidelines outline the procedures for collection of postmortem specimens from deceased persons with known or suspected COVID-19. Medical examiners, coroners, and other healthcare professionals should use their judgment to determine if a decedent had signs and symptoms compatible with COVID-19 during life and whether postmortem testing should be pursued.

NOTE- this appears to rely only to autopsies. It does not appear that healthcare providers in Long Term Care facilities would be responsible for collecting or even determining the appropriateness of such collection.

MARCH 27, 2020

Standard Operating Procedure (SOP) for Triage of Suspected COVID-19 Patients in non-US Healthcare Settings: Early Identification and Prevention of Transmission during Triage (https://www.cdc.gov/coronavirus/2019-ncov/hcp/non-us-settings/sop-triage-prevent-transmission.html)

Synopsis: These SOPs are specifically noted for suspected COVID-19 patients in healthcare settings not in the United States. However, they may provide general guidance for receiving and triaging potential COVID-19 cases.

APRIL 1, 2020

Interim Infection Prevention and Control Recommendations for Patients with Suspected or Confirmed Coronavirus Disease 2019 (COVID-19) in Healthcare Settings (https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-recommendations.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Finfection-control%2Fcontrol-recommendations.html)

Synopsis: This guidance outlines for infection prevention and control in healthcare settings including:

- Minimizing Chance for Exposures
- Adhere to Standard and Transmission-Based Precautions
- Patient Placement
- Take Precautions when performing Aerosol-Generating Procedures
- Collection of Diagnostic Respiratory Specimens
- Manage Visitor Access and Movement within the Facility
- Implement Engineering Controls
- Monitor and Manage Ill and Exposed Healthcare Personnel
- Train and Educate Healthcare Personnel
- Implement Environmental Infection Control
- Establish Reporting within and between Healthcare Facilities and to Public Health Authorities

This Guidance should be read in full.

UPDATED APRIL 13, 2020 - To address asymptomatic and pre-symptomatic transmission, implement source control for everyone entering a healthcare facility (e.g., healthcare personnel, patients, visitors), regardless of symptoms. This action is recommended to help prevent transmission from infected individuals who may or may not have symptoms of COVID-19.

- **Cloth face coverings are not considered PPE because their capability to protect healthcare personnel (HCP) is unknown. Facemasks, if available, should be reserved for HCP.**
- **For visitors and patients, a cloth face covering may be appropriate. If a visitor or patient arrives to the healthcare facility without a cloth face covering, a facemask may be used for source control if supplies are available.**

- **Actively screen everyone for fever and symptoms of COVID-19 before they enter the healthcare facility.**
- **As community transmission intensifies within a region, healthcare facilities could consider foregoing contact tracing for exposures in a healthcare setting in favor of universal source control for HCP and screening for fever and symptoms before every shift.**

Healthcare Infection Prevention and Control FAQs for COVID-19 (https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-faq.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Finfection-control%2Finfection-prevention-control-faq.html)

APRIL 6, 2020

Strategies to Mitigate Healthcare Personnel Staffing Shortages (https://www.cdc.gov/coronavirus/2019-ncov/hcp/mitigating-staff-shortages.html)

Synopsis: Maintaining appropriate staffing in healthcare facilities is essential to providing a safe work environment for healthcare personnel (HCP) and safe patient care. As the COVID-19 pandemic progresses, staffing shortages will likely occur due to HCP exposures, illness, or need to care for family members at home. Healthcare facilities must be prepared for potential staffing shortages and have plans and processes in place to mitigate these, including providing resources to assist HCP with anxiety and stress.

There are Contingency and Crisis Capacity Strategies that healthcare facilities should consider in these situations. For example, if, despite efforts to mitigate, HCP staffing shortages occur, healthcare systems, facilities, and the appropriate state, local, territorial, and/or tribal health authorities might determine that HCP with suspected or confirmed COVID-19 could return to work before the full Return to Work Criteria have been met. Several of the Crisis Capacity Strategies are dependent on HCP wearing a facemask for source control while at work. Given ongoing shortages of personal protective equipment (PPE), facilities should refer to and implement relevant Strategies for Optimizing the Supply of Facemasks.

Contingency Capacity Strategies to Mitigate Staffing Shortages

When staffing shortages are anticipated, healthcare facilities and employers, in collaboration with human resources and occupational health services, should use contingency capacity strategies to plan and prepare for mitigating this problem. At baseline, healthcare facilities must:

- Understand their staffing needs and the minimum number of staff needed to provide a safe work environment and patient care.
- Be in communication with local healthcare coalitions, federal, state, and local public health partners (e.g., public health emergency preparedness and response staff) to identify additional HCP (e.g., hiring additional HCP, recruiting retired HCP, using students or volunteers), when needed.

Contingency capacity strategies for healthcare facilities include:

Adjusting staff schedules, hiring additional HCP, and rotating HCP to positions that support patient care activities.

- Cancel all non-essential procedures and visits. Shift HCP who work in these areas to support other patient care activities in the facility. Facilities will need to ensure these HCP have received appropriate orientation and training to work in these areas that are new to them.
- Attempt to address social factors that might prevent HCP from reporting to work such as transportation or housing if HCP live with vulnerable individuals.
- Identify additional HCP to work in the facility. Be aware of state-specific emergency waivers or changes to licensure requirements or renewals for select categories of HCP.
- Request that HCP postpone elective time off from work.

Developing regional plans to identify designated healthcare facilities or alternate care sites with adequate staffing to care for patients with COVID-19.

Developing plans to allow asymptomatic HCP who have had an unprotected exposure to the virus that causes COVID-19 to continue to work.

- These HCP should still report temperature and absence of symptoms each day before starting work. These HCP should wear a facemask (for source control) while at work for 14 days after the exposure event. A facemask instead of a cloth face covering should be used by these HCP for source control during this time period while in the facility. After this time period, these HCP should revert to their facility policy regarding universal source control during the pandemic.
  - » A facemask for source control does not replace the need to wear an N95 or higher-level respirator (or other PPE) when indicated, including for the care of patients with suspected or confirmed COVID-19.
  - » Of note, N95 or other respirators with an exhaust valve might not provide source control.
- If HCP develop even mild symptoms consistent with COVID-19, they must cease patient care activities and notify their supervisor or occupational health services prior to leaving work. These individuals should be prioritized for testing.

Prioritizing HCP with suspected COVID-19 for testing, as testing results will impact when they may return to work and for which patients they might be permitted to provide care.

Developing criteria to determine which HCP with suspected or confirmed COVID-19 (who are well enough to work) could return to work in a healthcare setting before meeting all Return to Work Criteria—if shortages continue despite other mitigation strategies.

- Considerations include:
  - The type of HCP shortages that need to be addressed.
  - Where HCP are in the course of their illness (e.g., viral shedding appears to be higher earlier in the course of illness).
  - The types of symptoms they are experiencing (e.g., persistent fever).
  - Their degree of interaction with patients and other HCP in the facility. For example, are they working in telemedicine services, providing direct patient care, or working in a satellite unit reprocessing medical equipment?
  - The type of patients they care for (e.g., immunocompromised patients).
- As part of planning, healthcare facilities (in collaboration with risk management) should create messaging for patients and HCP about actions that will be taken to protect them from exposure to SARS-CoV-2 if HCP with suspected or confirmed COVID-19 are allowed to work.

Crisis Capacity Strategies to Mitigate Staffing Shortages

When staffing shortages are occurring, healthcare facilities and employers (in collaboration with human resources and occupational health services) may need to implement crisis capacity strategies to continue to provide patient care.

When there are no longer enough staff to provide safe patient care:

- Implement regional plans to transfer patients with COVID-19 to designated healthcare facilities, or alternate care sites with adequate staffing
- If not already done, allow asymptomatic HCP who have had an unprotected exposure to the virus that causes COVID-19 to continue to work.
  - These HCP should still report temperature and absence of symptoms each day before starting work. These HCP should wear a facemask (for source control) while at work for 14 days after the exposure event. A facemask instead of a cloth face covering should be used by these HCP for source control during this time period while in the facility. After this time period, these HCP should revert to their facility policy regarding universal source control during the pandemic.
    - A facemask for source control does not replace the need to wear an N95 or higher-level respirator (or other PPE) when indicated, including for the care of patients with suspected or confirmed COVID-19
    - Of note, N95 or other respirators with an exhaust valve might not provide source control.
  - If HCP develop even mild symptoms consistent with COVID-19, they must cease patient care activities and notify their supervisor or occupational health services prior to leaving work. These individuals should be prioritized for testing.

- If shortages continue despite other mitigation strategies, consider implementing criteria to allow HCP with suspected or confirmed COVID-19 who are well enough to work but have not met all Return to Work Criteria to work. If HCP are allowed to work before meeting all criteria, they should be restricted from contact with severely immunocompromised patients (e.g., transplant, hematology-oncology) and facilities should consider prioritizing their duties in the following order:
  1. If not already done, allow HCP with suspected or confirmed COVID-19 to perform job duties where they do not interact with others (e.g., patients or other HCP), such as in telemedicine services.
  2. Allow HCP with confirmed COVID-19 to provide direct care only for patients with confirmed COVID-19, preferably in a cohort setting.
  3. Allow HCP with confirmed COVID-19 to provide direct care for patients with suspected COVID-19.
  4. As a last resort, allow HCP with confirmed COVID-19 to provide direct care for patients *without* suspected or confirmed COVID-19.
- If HCP are permitted to return to work before meeting all Return to Work Criteria, they should still adhere to all Return to Work Practices and Work Restrictions recommendations described in that guidance. These include:
  - » Wear a facemask for source control at all times while in the healthcare facility until all symptoms are completely resolved or until 14 days after illness onset, whichever is longer. A facemask instead of a cloth face covering should be used by these HCP for source control during this time period while in the facility. After this time period, these HCP should revert to their facility policy regarding universal source control during the pandemic.
    - A facemask for source control does not replace the need to wear an N95 or higher-level respirator (or other PPE) when indicated, including when caring for patients with suspected or confirmed COVID-19.
    - Of note, N95 or other respirators with an exhaust valve might not provide source control.
  - » They should be reminded that in addition to potentially exposing patients, they could also expose their co-workers.
    - Facemasks should be worn even when they are in non-patient care areas such as breakrooms.
    - If they must remove their facemask, for example, in order to eat or drink, they should separate themselves from others.
- Being restricted from contact with severely immunocompromised patients (e.g., transplant, hematology-oncology) until the full Return to Work Criteria have been met.
- Self-monitoring for symptoms and seeking re-evaluation from occupational health if respiratory symptoms recur or worsen.

Information for Healthcare Professionals: COVID-19 and Underlying Conditions
(https://www.cdc.gov/coronavirus/2019-ncov/hcp/underlying-conditions.html)

Synopsis: This guidance identifies underlying healthcare conditions healthcare professionals should be aware of that may exacerbate COVID-19 in certain patients.

Strategic Priority Infection Prevention and Control Activities for Non-US Healthcare Settings
(https://www.cdc.gov/coronavirus/2019-ncov/hcp/non-us-settings/ipc-healthcare-facilities-non-us.html)

Synopsis: This guidance identifies strategies for infection and prevention and control in healthcare settings outside the United States.

Operational Considerations for the Identification of Healthcare Workers and Inpatients with Suspected COVID-19 in non-US Healthcare Settings
(https://www.cdc.gov/coronavirus/2019-ncov/hcp/non-us-settings/guidance-identify-hcw-patients.html)

Synopsis: This guidance provides a general overview for the identification and screening of healthcare workers and inpatients with suspected COVID-19 in healthcare settings outside the United States.

Interim Clinical Guidance for Management of Patients with Confirmed Coronavirus Disease (COVID-19)
(https://www.cdc.gov/coronavirus/2019-ncov/hcp/clinical-guidance-management-patients.html)

Synopsis: This Guidance provides a general overview for the management of patients with confirmed COVID-19. The Guidance gives a brief overview of the incubation period of the virus and then the presentation of symptoms (with percentages of how common they are in cases). The Guidance then goes to differentiate between illness severity, noting that patients with the virus can range from mild to critical. It also briefly discusses medications to treat the virus.

The Guidance then goes into detail as to the Clinical Management and Treatment for Mild/Moderate Disease and Severe Disease.

Mild to Moderate Disease

Patients with a mild clinical presentation (absence of viral pneumonia and hypoxia) may not initially require hospitalization, and many patients will be able to manage their illness at home. The decision to monitor a patient in the inpatient or outpatient setting should be made on a case-by-case basis. This decision will depend on the clinical presentation, requirement for supportive care, potential risk factors for severe disease, and the ability of the patient to self-isolate at home. Patients with risk factors for severe illness (see People Who Are at Higher Risk for Severe Illness) should be monitored closely given the possible risk of progression to severe illness in the second week after symptom onset.[5,6,10,11]

For information regarding infection prevention and control recommendations, please see Interim Infection Prevention and Control Recommendations for Patients with Confirmed Coronavirus Disease 2019 (COVID-19) or Persons Under Investigation for COVID-19 in Healthcare Settings.

Severe Disease

Some patients with COVID-19 will have severe disease requiring hospitalization for management. No specific treatment for COVID-19 is currently FDA approved. Corticosteroids have been widely used in hospitalized patients with severe illness in China[6,8,10,11]; however, the benefit of corticosteroid use cannot be determined based upon uncontrolled observational data. By contrast, patients with MERS-CoV or influenza who were given

corticosteroids were more likely to have prolonged viral replication, receive mechanical ventilation, and have higher mortality.[68-72] Therefore, corticosteroids should be avoided unless indicated for other reasons, such as management of chronic obstructive pulmonary disease exacerbation or septic shock. More information can be found at Healthcare Professionals: Frequently Asked Questions and Answers.

Inpatient management revolves around the supportive management of the most common complications of severe COVID-19: pneumonia, hypoxemic respiratory failure/ARDS, sepsis and septic shock, cardiomyopathy and arrhythmia, acute kidney injury, and complications from prolonged hospitalization including secondary bacterial infections, thromboembolism, gastrointestinal bleeding, and critical illness polyneuropathy/myopathy.[1,4-6,10,11,38,73-76]

The Infectious Diseases Society of America has released guidelines on the treatment and management of patients with COVID-19. For more information, please visit: Infectious Diseases Society of America Guidelines on the Treatment and Management of Patients with COVID-19 Infection.external icon

The World Health Organization and the Surviving Sepsis Campaign have both released comprehensive guidelines for the inpatient management of patients with COVID-19, including those who are critically ill. For more information visit: Interim Guidance on Clinical management of severe acute respiratory infection when novel coronavirus (nCoV) infection is suspectedexternal icon (WHO) and Surviving Sepsis Campaign: Guidelines on the Management of Critically Ill Adults with Coronavirus Disease 2019 (COVID-19)pdf iconexternal icon.

For more information on the management of children, see Information for Pediatric Healthcare Providers and the Surviving Sepsis Campaign International Guidelines for the Management of Septic Shock and Sepsis-Associated Organ Dysfunction in Childrenexternal icon.

APRIL 7, 2020

People with Disabilities (https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-disabilities.html)

Synopsis: This Guidance identifies possible disability groups that may be at higher risk for COVID-19. These include:

- People who have limited mobility or who cannot avoid coming into close contact with others who may be infected, such as direct support providers and family members
- People who have trouble understanding information or practicing preventive measures, such as hand washing and social distancing
- People who may not be able to communicate symptoms of illness

50-STATE SURVEY

Immunity / Executive Orders / Guidance

ALABAMA

On March 13, 2020 Governor Ivey issued a state of emergency. Section 1 of the Order discusses an "alternate standard of care" for health care professionals that are overwhelmed by the virus. The Order sets out in part:

A. Providers who have invoked their emergency operation plans may implement the "alternative standards of care" provided therein, and those standards are declared to be state approved
B. This alternative standard of care shall serve as the standard of care as defined by Alabama Code Title 6. Civil Practice § 6-5-542 (the definition of standard of care under the Medical Liability Act). To the extent the provisions of the Act are inconsistent with that order those provisions are suspended.
    a. Note: The "standard of care," as defined in the Alabama Medical Liability Act, applies to medical malpractice actions, whether they relate to intentional or to unintentional conduct and whether they are based on tort or on contract theories. Allred v. Shirley, 598 So. 2d 1347, 1992 Ala. LEXIS 422 (Ala. 1992).
C. All health care professionals and assisting personnel executing the alternative standard of care plans acting in good faith are hereby declared "Emergency Management Workers" of the state of Alabama for the purpose of Title 31 of the Code of Alabama.
    a. Note: Title 31 is "Military Affairs and Civil Defenses"

https://governor.alabama.gov/newsroom/2020/03/state-of-emergency-coronavirus-covid-19/

On April 2, the fifth supplemental state of emergency was ordered. Part of said Order extended the scope of practice for certain health care providers.
https://governor.alabama.gov/newsroom/2020/04/fifth-supplemental-state-of-emergency-coronavirus-covid-19/

Department of Health Recommendations (Recommended Standard of Care)
https://www.alabamapublichealth.gov/covid19/index.html
https://www.alabamapublichealth.gov/infectiousdiseases/index.html
https://covid19.alabama.gov/
https://www.alabamapublichealth.gov/covid19/faq.html

It appears that Alabama has no state specific recommendations or guidance documents available to any health care providers. It does offer links to CDC guidance.

ALASKA

General Information:

- Alaska Department of Health and Services website links to the CDC guidance documents for healthcare providers.
  - » http://dhss.alaska.gov/dph/Epi/id/Pages/COVID-19/healthcare.aspx
- Alaska COVID-19 Health Mandates
  - » https://covid19.alaska.gov/health-mandates/
- Patient Care Strategies for Scarce Resource Situations (Updates March 2020)
  - » 37-page reference tool that outlines strategies for scarce resource situations.
  - » Resources included:
    - Oxygen, staffing, nutritional support, medication administration, hemodynamic support and IV fluids, mechanical ventilation, blood products.
    - http://dhss.alaska.gov/dph/Epi/id/SiteAssets/Pages/HumanCoV/SOA_DHSS_CrisisStandardsOfCare.pdf

Timeline:

- March 11: Declaration of State of Emergency Issued
- April 14: Guidance on use of PPE for Healthcare Personnel Caring for COVID Patients
  - » Wear a mask (N-95, PAPR, or equivalent), gown, gloves, and eye protection.
  - » When supply of masks cannot meet demand, follow CDC guidelines for modifications.
    - http://dhss.alaska.gov/dph/Epi/id/SiteAssets/Pages/HumanCoV/AKCOVID_PPE.pdf; http://dhss.alaska.gov/dph/Epi/id/SiteAssets/Pages/COVID-19/healthcare/PPE%20Flowchart.pdf
- April 15 (Health mandate 015): Suspension of nonessential healthcare
  - » https://gov.alaska.gov/wp-content/uploads/sites/2/04152020-COVID-19-Mandate-015.pdf

Civil Liability:

- There has been no liability waiver enacted specifically for COVID-19.

Statute of Limitations Tolling:

- No specific or statewide court orders regarding statute of limitations.
- http://www.courts.alaska.gov/covid19/index.htm

ARIZONA

General Information:

- Arizona Department of Health Services Healthcare Provider Information Page
  - » https://www.azdhs.gov/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/index.php#novel-coronavirus-healthcare-providers
- Arizona Department of Health Services State Disaster Medical Advisory Committee Website
  - » https://www.azdhs.gov/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/index.php#novel-coronavirus-sdmac
- Arizona PPE Guidelines
  - » Wear a mask, gloves, gown, and eye protection
  - » Outlines PPE shortage process
    - https://www.azdhs.gov/documents/preparedness/epidemiology-disease-control/infectious-diseases-services/coronavirus/covid-19-ppe-guidance.pdf
    - https://www.azdhs.gov/documents/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/novel-coronavirus/sdmac/sdmac-ppe-contingency-guidance.pdf
- COVID Reponses Fact Sheet
  - » Brief outline regarding what healthcare facilities can do to protect their workforce and patients.
    - https://www.azdhs.gov/documents/preparedness/epidemiology-disease-control/infectious-diseases-services/coronavirus/healthcare-facility-handout.pdf
- Coronavirus Disease 2019 Outbreak and Infection Control Guidance for Healthcare Facilities
  - » Provides guidelines regarding implementing emergency procedures, triage, PPE, patient check-in and screening, and disinfection.
    - https://www.azdhs.gov/documents/preparedness/epidemiology-disease-control/infectious-diseases-services/coronavirus/infection-control-guidance.pdf
- COVID-19 Healthcare Staffing Guidance (approved April 1)
  - » Healthcare organizations should establish expanded staffing plans that could integrate alternative healthcare resources into their current model.
  - » Healthcare organizations should develop protocols for rapid, immediate onboarding of additional healthcare staff in their facility (e.g. rapid credentialing processes, etc.)
  - » Healthcare organizations should develop just-in-time training for healthcare workers to work in departments outside of their own (e.g. ICU, medical-surgical floors, triage) under the supervision of a clinical supervisor.
    - https://www.azdhs.gov/documents/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/novel-coronavirus/sdmac/sdmac-guidance-staffing.pdf
- COVID-19 Pre-Hospital Triage Guidance (approved April 1)
  - » Provides guidance regarding community messaging, 9-1-1 call screenings, hospital triage areas, and EMS assessment.
    - https://www.azdhs.gov/documents/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/novel-coronavirus/sdmac/sdmac-guidance-pre-hospital-triage.pdf

- Crisis Standards of Staffing at Short-Term Inpatient Acute Care Facilities Guidance
  - » Short-term inpatient acute care facilities or systems should immediately identify a staff member to serve as the Clinical Care Director
  - » Short-term inpatient acute care facilities or systems should immediately identify physician(s) or qualifying clinician(s) to serve as CSC Triage Officer(s) for the facility or system
    - https://www.azdhs.gov/documents/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/novel-coronavirus/sdmac/sdmac-guidance-crisis-standards-care-healthcare-facilities.pdf

Timeline:

- For updates, see: https://azgovernor.gov/governor/news/2020/03/arizonas-covid-19-actions-date
- March 11: Declaration of Public Emergency Issued
  - » Gave health officials more funding to fight COVID-19
  - » Designated the Arizona Department of Health Services as the agency leading Arizona's response to COVID-19
  - » Activated the State Emergency Operations Center in addition to the Health Emergency Operations Center to coordinate resources
  - » Waived certain licensing requirements to increase access to healthcare
  - » Gave the state emergency procurement authority to purchase supplies
    - https://azgovernor.gov/sites/default/files/declaraton_0.pdf
- March 11: Issued Executive Order to protect high risk populations and ensure care
  - » Required insurance companies and health plans to cover out of network providers for COVID-19 testing
  - » Waived all copays, coinsurance, and deductibles for COVID-19 testing
  - » Reduced co-pays for telemedicine visits
  - » Prohibited price-gouging on COVID-19 testing and treatment
  - » Required symptom checks of healthcare workers and visitors at skilled nursing facilities, nursing homes, and assisted living facilities
    - https://azgovernor.gov/sites/default/files/eo_2020-07.pdf
- March 19: Delayed Elective Surgeries to Increase Hospital Capacity
  - » https://azgovernor.gov/governor/news/2020/03/governor-ducey-announces-latest-covid-19-actions
- March 24: Waived rules requiring a physician to oversee Certified Registered Nurse Anesthetists, freeing up more doctors up to provide other needed medical services.
  - » https://azgovernor.gov/sites/default/files/crna_opt-out_letter_03.24.2020.pdf
- March 26: Executive Order to Ensure Hospital Preparedness
  - » Directed hospitals to activate emergency plans, implement triage processes, optimize staffing, and increase bed capacity,
    - https://azgovernor.gov/sites/default/files/eo_2020-16_1_0.pdf
- March 26: Executive Order to Expand Licensing Opportunities
  - » Defer licensing requirements and continuing education requirements for six months, issuance of provisional licenses where examination is not feasible.
  - » Boards and agencies effected (36 total) are listen within.
    - https://azgovernor.gov/sites/default/files/eo_2020-17_0.pdf

- April 2: Order Allowing Certain Prescription Refills Without Having to See A Doctor
  - » https://azgovernor.gov/sites/default/files/eo_2020-20_expanding_pharmacies.pdf
- April 14: Executive Order Regarding on the Job Training for Assisted Living Facility Caregivers
  - » Outlines criteria that must be met to be certified to work in an assisted living facility, including on the job training and examination.
    - https://azgovernor.gov/sites/default/files/related-docs/eo_2020-28_on_the_job_training.pdf
- April 14: Executive Order allowing for data-sharing to provide first responders with information that may prevent or lessen the threat of their exposure to COVID-19.
  - » https://azgovernor.gov/sites/default/files/related-docs/eo_2020-30_enhanced_surveillance.pdf

Civil Liability:

- Executive Order 2020-27 (April 9)
  - » The "Good Samaritan Order": Protecting frontline healthcare workers responding to the COVID-19 outbreak.
  - » Grants civil immunity to some healthcare workers
    - https://azgovernor.gov/sites/default/files/eo_2020-27_the_good_samaritan_order.pdf
- From "Federal and State Liability Protections Related to COVID-19 Emergency Declarations" (Dated March 30)
  - » Public Health Emergency Privileges and Immunities (A.R.S. § 36-790)
    - Under A.R.S. § 36-790, a person or health care provider is immune from civil or criminal liability if the person or health care provider acted in good faith when undertaking required activities. Actions taken to meet the required activities under a declared public health emergency or an enhanced surveillance advisor are presumed to be in good faith.
  - » State of Emergency Immunities (A.R.S. § 26-314)
    - Under a state of emergency declaration, A.R.S. § 26-314 provides liability protections to: -
      - o The State, its departments, agencies, boards and commissions, and its political subdivisions;
      - o Officers, agents, and employees of the State or the political subdivisions;
      - o Emergency Workers (i.e., Officers, agents, or employees of the State or a political subdivision of the State who are called on to perform or support emergency management activities or perform emergency functions and persons, whether temporary, permanent, paid, or volunteer, who are registered with the State's or local authority's emergency management organization and are certified by that emergency management organization for the purpose of engaging in authorized emergency management activities or performing emergency functions); and
      - o Other states and their officers, agents, emergency workers, and employees.
    - There are no liability protections for willful misconduct, gross negligence, or bad faith.
    - https://www.azdhs.gov/documents/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/novel-coronavirus/sdmac/liability-guidance.pdf

Statute of Limitations:

- No specific or statewide court orders regarding statute of limitations.
- https://www.azcourts.gov/covid19/

ARKANSAS

E.O. 20-03 (March 11) Declared a state of emergency and instructed the DOH to take action to prevent the spread of COVID-19.

E.O. 20-05 (March 13) relax regulations on telehealth and allowed initial consultations to occur remotely.

E.O. 20-18 (April 13) Provides immunity from liability to certain emergency responders for any injury or death alleged to have been sustained directly in the course of providing medical services in response to the COVID-19 outbreak; includes physicians, physician assistants, specialist assistants, nurse practitioners, LPNs and RNs.

This order was effective immediately until the "duration of the emergency". It includes the some of the following:

(1) A relaxation on the limit of hours providers can work to meet staffing needs

(2) A suspension of the Arkansas Code to the extent necessary to allow emergency medical treatment protocol modifications to occur with the states approval including but not limited to:
   a. Triage, testing, and treatment
   b. Services provided in response to personnel shortages
   c. Canceling/postponing elective surgeries or routine care
   d. Deploying or cross training staff to practice outside their usual scope
   e. Planning to or enacting crisis standard of care measures
   f. Reducing record keeping requirements

(3) Immunity from liability for the following emergency responders, whether employed by the State or Federal government, a private entity or non-profit entity, 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:
   a. Physicians
   b. PAs
   c. Specialist assistants
   d. Nurse practitioners
   e. Licensed registered nurses
   f. Licensed practical nurses

(4) This immunity will not be extended to an emergency provider who as a result of his or her action or omission, causes an injury or death due to
   a. Acting outside of the scope of his of her practice unless he or she has been deployed as a result of 2(d) [section number is different in the full order] of this order; or
   b. Acting in gross negligence, willful misconduct, or bad faith.
   https://governor.arkansas.gov/images/uploads/executiveOrders/EO_20-18._.pdf

Department of Health Recommendations (Recommended Standard of Care)
https://www.healthy.arkansas.gov/programs-services/topics/covid-19-guidance-for-healthcare-providers

The following are recommendations and resources available from the link above:

- March 17 letter for management of patients with COVID. The letter itself is rather scarce but lists some common symptoms, incubation period, factors that make someone high risk, etc. It also provides links to CDC guidance.
  - » https://www.healthy.arkansas.gov/images/uploads/pdf/ClinicalManageCOVID.3.19.20.pdf
- March 23 letter regarding treatment for **long term care facilities** specifically. It includes recommendations such as restricting visitation, implementing active screening for workers with fevers or respiratory illness, canceling group activities, and isolating those suspected with the virus.
  - » https://www.healthy.arkansas.gov/images/uploads/pdf/LTCPreventManageCovidfinal-03-23-20.pdf
- March 25 letter regarding
- March 26 letter to physicians regarding process and recommendations for instituting home quarantines
  - » https://www.healthy.arkansas.gov/images/uploads/pdf/LocalPhysiciansQuarantineFinal3.26.20_1.pdf
- CDC and MCD links
  - » CMS links are provided for each specific provider type, but they are not state specific

CALIFORNIA

General Information:

- Department of Healthcare Services:
  - https://www.dhcs.ca.gov/Pages/DHCS-COVID%E2%80%9119-Response.aspx
- California Emergency Medical Services Authority:
  - https://emsa.ca.gov/covid19/
- California Department of Public Health:
  - https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/ncov2019.aspx
- All Facility Letters for health care facilities, including long-term care facilities
  - The California Department of Health has issued 31 letters of guidance to healthcare facilities regarding COVID-19. The letters (with summaries) can be found at the link below.
    - https://www.cdph.ca.gov/Programs/CHCQ/LCP/Pages/LNCAFL20.aspx

Timeline:

- See https://www.gov.ca.gov/california-takes-action-to-combat-covid-19/ for updates.
- Infection Control Recommendations for Suspect COVID-19 Patients
  - https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/OutpatientHealthcareFacilityInfectionControlRecommendationsforSuspectCOVID19Patients.aspx
- March 3: California Emergency Medical Services Authority Interim Emergency Medical Services Guidelines for COVID-19
  - Includes guidance regarding PPE shortage, EMS processes, and patients under investigation
    - https://emsa.ca.gov/wp-content/uploads/sites/71/2020/03/COVID-19-Memo-to-EMS-Partners-007-1.pdf
- March 4: Proclamation of State of Emergency
  - Among other things, the proclamation allows for health care workers to come from out of state to assist at health care facilities and gives health care facilities the flexibility to plan and adapt to accommodate incoming patients.
  - https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf
- March 13: Guidance for Skilled Nursing Facilities
  - https://www.cdph.ca.gov/Programs/CHCQ/HAI/CDPH%20Document%20Library/COVID.19_GuidanceFor_SNF_HAI%20WebinarFINAL_03.13.20.pdf
- March 15 (Executive Order N-27-20): Issued to protect the health and safety of Californians most vulnerable to COVID-19 residing at health care, residential and non-residential facilities licensed by the state
  - The state must focus on protecting the health and safety of the most vulnerable in licensed facilities.
  - The state shall immediately identify health, community care facilities, and other sites that house populations that are most vulnerable to COVID-19. This includes, but is not limited to seniors and individual who require assisted-living services due to chronic health conditions.
  - The state shall redirect resources and provide technical and compliance support to protect caregivers and those they care for.
  - Enforcement activities shall focus where there are allegations of the most serious violations impacting health and safety.

  - The Health and Human Services Agency, in consultation with counties and labor organization and consumers, shall leverage existing services and programs to support home isolation of vulnerable Californians, including seniors and those with serious chronic underlying health conditions.
  - To address the increased demand for healthcare workers and first responders, state Departments shall authorize first responders, care providers, and workers who are asymptomatic and taking precautions to prevent the transmission of COVID-19, to continue working during the period of this emergency
  - https://www.gov.ca.gov/wp-content/uploads/2020/03/3.15.2020-COVID-19-Facilities.pdf
- March 16: Guidance for Medical Waste Management
  - https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/MedicalWasteManagementInterimGuidelines.aspx
- March 16: Guidance for Contracted Blood Factor Providers
  - https://www.dhcs.ca.gov/provgovpart/pharmacy/Documents/Guidance-Contracted-Blood-Factor-Providers.pdf
- March 21 (Executive Order N-35-20): Allowing waiver of any of the licensing and staffing requirements of chapters 1, 3.3, 8.5, and 9 of division 2 of the Health and Safety Code and any accompanying regulations with respect to any clinic, adult day health care, hospice, or mobile health care unit.
  - https://www.gov.ca.gov/wp-content/uploads/2020/03/3.21.20-EO-N-35-20-text.pdf
- March 24: Guidance Relating to Non-Urgent, Non-Essential or Elective Procedures Relative to the 2019-Novel Coronavirus
  - https://www.dhcs.ca.gov/Documents/COVID-19/Non-Essential-Essential-Procedures-032420.pdf
- March 30 (EXECUTIVE ORDER N-39-20):
  - Allowing State Departments to waive some licensure requirements.
  - Suspending permitting requirements of the Radiological Technology Act
  - https://www.gov.ca.gov/wp-content/uploads/2020/03/3.30.20-EO-N-39-20.pdf
- April 10: Subacute Unit Flexibility During COVID-19
  - https://www.dhcs.ca.gov/Documents/COVID-19/PPL-20-01-for-COVID-19.pdf
- April 16: COVID-19 Guidance for Pharmacy Personnel
  - https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/GuidanceforPharmacies.aspx

Civil Liability:

There has been no liability waiver or immunity order enacted specifically for COVID-19. However, there is a proposed order that has been submitted to Governor Newsom to obtain some type of immunity for LTC providers.

Here is the defense position re immunity:

https://leadingageca.app.box.com/s/3l1f44a01hfp4vwnpm019sdctyb8nm3z

Here is the plaintiff's position:

LANZONE MORGAN LLP

IMMEDIATE ACTION REQUIRED

Dear Nursing Home Advocates,

On April 9, 2020, nursing home lobbyists and other health care provider organizations wrote to Governor Newsom asking for an Executive Order to grant them near-complete immunity from criminal and civil liability. This request for immunity was not limited to the negligence of patients contracting COVID-19 but for all wrongful conduct during this crisis. If granted by the Governor, it would strip away the last layer of protection for nursing home residents at a time when their lives are in grave danger and deny them any chance of receiving justice for unconscionable conduct.

Nursing homes have been ground zero for COVID-19. Countless residents have died during outbreaks in nursing homes with terrible histories of neglect. Hundreds of California nursing homes have outbreaks that immediately threaten the life of every resident with tragedies unfolding every day. California banned all family visitors causing residents to suffer and die alone. Many family members did not even know when their loved ones passed and the cause of their deaths. State monitoring and regulation of these facilities, already limited by resources and budgeting, have nearly halted, also leaving these facilities to go unchecked.

Despite the decrease in resident protection, these facilities want more. Now they want immunity for all decisions and inaction, including the reckless or oppressive abuse and neglect of residents.

We urge you to contact Governor Gavin Newsom immediately, letting him know that blanket immunity for nursing homes and assisted living facilities, even for conduct unrelated to COVID-19, such as falls/fractures and bed sores, is not acceptable. You may contact him by:

Submitting an online comment at:
https://govapps.gov.ca.gov/gov40mail/

Or contacting his office via telephone at:
(916) 445-2841.

Time is of the essence since the Governor is considering issuing the Executive Order and may do so at any moment.

Kindest regards,

Anthony Lanzone, Esq.
James M. Morgan, Esq.
Lanzone Morgan, LLP
Website: https://lanzonemorgan.com/
Office: (562) 596-1700

There is also the below California Code that provides certain immunities in certain state of emergencies:

- Cal. Gov't Code § 8659: "Any physician or surgeon (whether licensed in this state or any other state), hospital, pharmacist, respiratory care practitioner, nurse, or dentist who renders 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 shall have no liability for any injury sustained by any person by reason of those services, regardless of how or under what circumstances or by what cause those injuries are sustained; provided, however, that the immunity herein granted shall not apply in the event of a willful act or omission"

Statute of Limitations:

- No specific or statewide court orders regarding statute of limitations.

COLORADO

General Information:

- Colorado Department of Public Health and Environment COVID-19 Resources for Health Care Providers and Local Public Health Agencies
  - » Includes CDC, CMS, and State-issued guidance. State issued guidance outlined below.
  - » https://covid19.colorado.gov/covid-19-resources-health-care-providers-and-local-public-health-agencies
- Colorado Department Public Health and Environment Guidelines for Prevention & Control of COVID-19 in Assisted Living Residences
  - » Includes steps that facilities can take to prevent COVID-19 from entering and spreading in assisted living residences. All recommendations in this document are based on guidelines provided by the Centers for Disease Control (CDC).
    - https://drive.google.com/file/d/14Dif-ZgSDMtIt-m_NbXS8MmR0b10WWn6/view
- Colorado Crisis Standards of Care
  - » https://www.colorado.gov/pacific/cdphe/colorado-crisis-standards-care

Timeline:

- March 11: Declaration of Disaster emergency Issued
  - » https://drive.google.com/file/d/1szJfU9WF36-lCVgRhXMAnJdlQyTSG83e/view
- March 12: Notice of Public Health Order 20-20
  - » Restricting visitors at all Colorado skilled nursing facilities, assisted living residences and intermediate care facilities.
    - https://drive.google.com/file/d/1Gh04urAnFlc9LG18nPm3GVGH4WGRvkr6/view
- March 14 (updated April 17): INTERIM Guidelines for Preparation and Response to Single Cases and Outbreaks of COVID-19 in Long-Term Care Settings
  - » The purpose of this document is to provide guidance to long-term care facilities when a resident or healthcare personnel is suspected or confirmed to have COVID-19 and to provide recommendations to prevent transmission within the facility.
    - https://drive.google.com/file/d/1J8XurY-o0SsWHt-668sRCNAUVAJSTc9j/view
- March 16: Community Health Center Mitigation Guidance for COVID-19
  - » https://drive.google.com/file/d/1wVykLXzNiDy93UrTPGmIoxCruijWxd5w/view
- March 19: Executive Order Ceasing All Elective and Non-Essential Surgeries
  - » https://drive.google.com/file/d/1Sp3le5zUavA3GKM_omeDXpm7FNfL-wSt/view
- April 15: Executive Order regarding the temporary suspension of certain statutes and rules to expand the healthcare workforce for hospitals and other inpatient treatment facilities due to the presence of COVID-19.
  - » https://www.colorado.gov/governor/sites/default/files/inline-files/D%202020%20038%20Medical%20Surge.pdf

Civil Liability:

- There has been no liability waiver enacted specifically for COVID-19.

Statute of Limitations:

- No specific or statewide court orders regarding statute of limitations.
- https://newsroom.courts.ca.gov/coronavirus-updates

CONNECTICUT

Executive Order No. 7U:

On April 5, 2020, the Governor of Connecticut issued Executive Order 7U to establish immunity from civil suit for health care providers working in support of Connecticut's COVID-19 response. The executive order states in relevant part:

> Notwithstanding any provision of the Connecticut General Statutes, or any associated regulations, rules, policies, or procedures, any **health care professional** or **health care facility** shall be **immune** from suit for civil liability for any injury or death alleged to have been sustained because of the individual's or health care facility's acts or omissions undertaken in good faith while providing health care services in support of the State's COVID-19 response, **including but not limited to acts or omissions undertaken because of a lack of resources,** attributable to the COVID-19 pandemic, that renders the health care professional or health care facility unable to provide the level or manner of care that otherwise would have been required in the absence of the COVID-19 pandemic and which resulted in the damages at issue…

The term "**health care professional**" is defined in the Order as "an individual who is licensed, registered, permitted or certified in any state in the United States to provide health care services and any retired professional, professional with an inactive license, or volunteer approved by the Commissioner of the Department of Public Health.:"

The term "**health care facility**" is defined in the Order as "a licensed or state approved hospital, clinic, nursing home, field hospital, or other facility designated by the Commissioner of the Department of Public Health for temporary use for the purposes of providing essential services in support of the State's COVID-19 response.

The immunity conferred by the Order applies to acts or omissions occurring **at any time during the public health emergency first declared on March 10, 2020** including any period of extension or renewal, including acts or omissions occurring prior to the issuance of the order [April 5, 2020] attributable to the COVID-19 response effort.

The scope of the immunity broadly applies to all potential civil suits where Connecticut's COVID-19 response hampered the requisite level or manner of care otherwise required. The Order therefore grants immunity to any alleged malpractice if the malpractice arose from a lack of resources attributable to the pandemic. Notably, a provider is not insulated from civil liability if crime, fraud, malice, gross negligence, or willful misconduct occurred.

The language of Executive Order 7U was slightly modified and superseded in Executive Order 7V. The language used in 7V is largely identical and has the same effect as 7U.

Connecticut Timeline

Orders Issued by Connecticut Office of Health Strategy:

- March 16, 2020: Guidance Regarding the Certificate of Need (CON) Process and the State's Response to COVID-19
- March 25, 2020: Guidance Regarding the Temporary Waiver of CON requirements for Approval of Increased Licensed Bed Capacity and the Temporary Suspension of Services at Connecticut Hospitals
- March 31, 2020: Revised Guidance Regarding the Temporary Waiver of CON Requirements for Approval of Increased Licensed Bed Capacity and the Temporary Suspension of Services at Connecticut Hospitals

Orders Issued by Connecticut Insurance Department

- March 9, 2020: Bulletin to all health insurance companies and health care centers on COVID-19 testing
- March 24, 2020: Bulletin to insurance companies, health care centers, and fraternal benefit societies on compliance with certain filing requirements in light of COVID-19

Orders Issued by Connecticut Department of Consumer Protection

- March 19, 2020: Drug Control Division Releases Guidance for Practitioners Regarding Refill and Reissuance of Controlled Substances
- March 29, 2020: Delivery of Medication to Automated Dispensing Machines in Hospitals

Executive Orders issued by Connecticut Governor Lamont

- March 10, 2020: Declaration of Civil Preparedness and Public Health Emergencies
- March 12, 2020: Executive Order No. 7
  - » Limits on Nursing Home visitors
- March 13, 2020: Executive Order No. 7A
  - » Grants DPH Commissioner authority to restrict visitors at nursing homes and similar facilities
- March 14, 2020: Executive Order No. 7B
  - » Flexibility to provide for adequate healthcare resources and facilities
- March 15, 2020: Executive Order No. 7C
  - » Limits on visitors to facilities that treat persons with psychiatric disabilities
  - » COVID-19 information sharing between facilities that treat persons with psychiatric disabilities, Department of Public Health, and local health directors
- March 18, 2020: Executive Order No. 7F
  - » Expansion of Medicaid telehealth coverage to audio-only telephone
  - » Waiver of in-person service, gearing, and screening requirements for facilities that have issued orders limiting visitor access
- March 19, 2020: Executive Order No. 7G
  - » Flexibility for Medicaid-enrolled providers and in-network providers for commercial fully insured health insurance to perform telehealth through additional methods

- March 20, 2020: Executive Order No. 7H
  - "Stay Safe, Stay Home" restrictions on all workplaces for non-essential businesses
- March 21, 2020: Executive Order No. 7I
  - Modifications to Department of Consumer Protection regulations regarding pharmacies
- March 22, 2020: Executive Order No. 7J
  - Delivery of methadone to homebound patients by methadone clinics
- March 23, 2020: Executive Order No. 7K
  - Modification of Department of Public Health regulatory requirements
- March 24, 2020: Executive Order No. 7L
  - Flexibility to maintain adequate medical marijuana access for patients
  - Extension of time period for nursing home transfers
- March 27, 2020: Executive Order No. 7O
  - Suspension of license renewals by Department of Public Health
  - Modification of health care provider identification badge requirements
  - Waiver of registration requirements for alcohol-based hand sanitizers and medical devices
- April 1, 2020: Executive Order No. 7S
  - 60-day grace periods for premium payments, policy cancellations, and non-renewals of insurance policies
  - Flexibility to amend Medicaid waivers and state plan
- April 2, 2020: Executive Order No. 7T
  - Suspension of rehearing rights for temporary rate increases for certain health care providers
- April 5, 2020: Executive Order No. 7U*
  - **Protection from civil liability for actions or omissions in support of the State's COVID-19 response**
    - Superseded by provisions of EO 7V
  - Financial protections for the uninsured and people covered by insurance who receive out-of-network health care services during the public health emergency
  - See information above
- April 7, 2020: Executive Order No. 7V*
  - Temporary permits for certain health care providers extended and fees waived
  - Practice before licensure for certain health care profession applicants and graduates
  - Practice before licensure for family and marital therapy associates
  - Practice before licensure for professional counselor associates
  - **Protection from civil liability for actions or omissions in support of the State's COVID-19 response**
    - Superseded provisions of EO 7U
- April 11, 2020: Executive Order No. 7Y
  - Implementation of nursing home surge plan
- April 14, 2020: Executive Order No. 7Z
  - Modification of state contracting statutes to facilitate the emergency procurement of essential goods
- April 15, 2020: Executive Order No. 7AA
  - Approval of temporary additional nursing home beds for COVID-19 recovery

DELAWARE

https://coronavirus.delaware.gov

Pursuant to: DECLARATION OF A PUBLIC HEALTH EMERGENCY FOR THE STATE OF DELAWARE and JOINT ORDER OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES AND THE DELAWARE EMERGENCY MANAGEMENT AGENCY

Definition(s)

These orders designate the following as "public employees," pursuant §§4001- 4002 of Title 10."

(1) Out of state health care providers, including physicians, pharmacists, respiratory therapists, physician assistants, paramedics, emergency medical technicians, practical nurses, professional nurses, advanced practice registered nurses, and nursing assistants with an active license or certification in good standing in any United States jurisdiction are hereby authorized to provide healthcare services in Delaware; and

(2) All physicians, pharmacists, respiratory therapists, physician assistants, paramedics, emergency medical technicians, practical nurses, professional nurses, advanced practice registered nurses, and nursing assistants who have held an active Delaware license or certification within the last five years, which is now inactive, expired, or lapsed, may provide healthcare services in Delaware, so long as that license was active and in good standing for the duration of the five-year period prior to the date it went inactive, expired or lapsed; and

(3) All out of state mental health providers with an active license in good standing in any United States jurisdiction, including psychologists, mental health counselors, clinical social workers, chemical dependency counselors, and marriage and family therapists are hereby authorized to provide in-person and telemedicine mental health services in Delaware; and

(4) All psychologists, mental health counselors, clinical social workers, chemical dependency counselors, and marriage and family therapists who have held an active Delaware license within the last five years, which is now inactive, expired, or lapsed, may provide mental healthcare services in Delaware, so long as that license was active and in good standing for the duration of the five-year period prior to the date it went inactive, expired or lapsed; and

(5) Students currently enrolled in a Delaware Board of Nursing approved nursing school are hereby authorized to conduct medical examinations and tests, and perform administrative duties, so long as any such student is supervised by a nurse, physician assistant, advanced practice registered nurse, or physician with an active Delaware license; and

(6) Students currently seeking a degree that will meet the requirements of 24 *Del. C.* § 1720(b)(2) when the degree is conferred, are hereby authorized to conduct medical examinations and tests, and perform administrative duties, so long as any such student is supervised by a physician with an active Delaware license.

In addition, pursuant to DECLARATION OF A PUBLIC HEALTH EMERGENCY FOR THE STATE OF DELAWARE the Public Health Authority is further authorized to:

a. Direct vaccination, treatment, isolation, quarantine and such other measures as may be necessary to prevent or contain the spread of COVID-19, including

b. Designate any qualified person to administer vaccines in accordance with 20 Del. C. § 3137, and require in-state health care providers to assist in the performance of vaccination, treatment and testing of any potentially infected individual in accordance with 20 Del. C. § 3140.

NOTE: "Public employee" is not directly used in the latter. However, as events transpire there should be a strong argument that any in-state health care provider DIRECTED by the Public Health Authority is, in essence, a public employee with respect to liability immunity.

Timeframe Immunity Extends

This order is effective from March 23, 2020 at 5:00 p.m. E.D.T. and shall remain in effect until further notice but not later than such time as the later of the Governor's Declaration of Public Health Emergency or Declaration of a State of Emergency (including any modifications) is lifted.

Scope of Immunity

Pursuant to §§4001- 4002 of Title 10, "public employees" will be protected from liability so long as the conduct was in good faith and not grossly negligent.

Timeline

March 13, 2020 – Gov. Varney declared a State of Emergency.

March 24, 2020 – JOINT ORDER OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES AND THE DELAWARE EMERGENCY MANAGEMENT AGENCY, outline above, issued. *See* LINK

March 30, 2020 – Screening requirements issued for high risk essential businesses. *See* LINK

April 15, 2020 – Stricter measures implemented in long-term care facilities. LINK

Tolling of Statute of Limitations

As of April 14, Delaware has extended statutes of limitation that were set to expire on or before May 14 through June 1. *See* LINK

FLORIDA

On March 1, 2020 Governor Ron DeSantis declared a public health emergency in Florida. He directed the State Surgeon General Dr. Scott Rivkees to follow the guidelines established by the CDC for preventing the spread of COVID-19. Fla. Exec. Order No. 20-51 (March 1, 2020)

Governor DeSantis then declared a state of emergency on March 9, 2020 effective immediately and for a period of 60 days. Fla. Exec. Order No. 20-52 (March 9, 2020). It also provides that medical professionals and workers, social workers, and counselors with good and valid professional licenses issued by states other than the State of Florida may render such services in Florida during this emergency for persons affected by this emergency with the condition that such services be rendered to such persons free of charge, and with the further condition that such services be rendered under the auspices of the American Red Cross or the Florida Department of Health.

Executive Order No. 20-72 (announced March 20, 2020 and effective immediately) announced the suspension of all procedures/surgeries that were not medically necessary.

Fla. Exec. Order No. 20-85 – Extends use of telehealth services in the states.

Department of Health Emergency Order 20-002 – Allows health care professionals licensed in other states to render services in Florida if certain conditions are met. Also allows health care professionals licensed in other states to provide care to Florida patients via telehealth.

Note: There have been no orders issued by the Governor that grant immunity for healthcare workers for claims related to COVID-19. The Florida Health Care Association sent a letter to Governor DeSantis requesting the same in April. Florida's health care administration said that there were reviewing the letter but have made no final decision on the request. https://www.usatoday.com/story/news/health/2020/04/11/coronavirus-florida-nursing-homes-covid-lawsuits-ron-desantis/2977441001/ (April 11, 2020)

Potentially Applicable Statutes

FL ST § 768.13 provides "Good Samaritan" immunity for health care providers in certain situations. More specifically, it provides that volunteers giving treatment "gratuitously" in a state of emergency can be exempt from civil damages so long as they acted in good faith and were not reckless or grossly negligent. *Ibid.*

Department of Health Recommendations (Recommended Standard of Care)

Health Care Providers: https://floridahealthcovid19.gov/health-care-providers/

Healthcare facilities and clinicians should prioritize urgent and emergency visits and procedures now and for the coming several weeks. The following actions can preserve staff, personal protective equipment, and patient care supplies; ensure staff and patient safety; and expand available hospital capacity during the COVID-19 pandemic:

- Delay all elective ambulatory provider visits
- Reschedule elective and non-urgent admissions
- Delay inpatient and outpatient elective surgical and procedural cases
- Postpone routine dental and eyecare visits

Clinical Guidelines for Screening and Testing: http://flhealthsource.gov/pdf/03282020-clinical-guidance-chart.pdf (updated March 28, 2020)

Priority 1: Ensure optimal care for all hospital patients and reduce risk of healthcare associated infections
Priority 2: Ensure those at highest risk are identified and triaged
Priority 3: As resources allow, test individuals in surrounding community where cases are rapidly increasing

It should be noted the Florida Department of Health instructs health care providers to follow the CDC guidelines for testing and infection control.

Nursing Homes, Assisted Living and Long Term Care Facilities: https://floridahealthcovid19.gov/nursing-homes/

It should be noted that Florida issued an emergency order prohibiting visitation to nursing homes, assisted living facilities and other long-term care facilities except by family and friends during end-of-life situations or for the purposes of health care or legal services.

The Centers for Disease Control and Prevention (CDC) recommends that nursing homes:
- Restrict all visitation except for certain compassionate care situations, such as end of life situations
- Restrict all volunteers and non-essential healthcare personnel (HCP), including non-essential healthcare personnel (e.g., barbers)
- Cancel all group activities and communal dining
- Implement active screening of residents and HCP for fever and respiratory symptoms

The State DOH also provided a check list for preventing the spread of COVID-19 in these facilities dated March 27: https://s33330.pcdn.co/wp-content/uploads/2020/03/asst_living_facilities_prevent_covid_19_mar27.pdf

Some key takeaways from this checklist are to:
- Screen staff and employees for fever
- Immediately isolate those with symptoms
- Take vitals twice a shift for residents who are ill
- Screen for fever/new symptoms once a shift
- PPE is recommended for all resident care

Patient and staff education is also emphasized on the Florida DOH website (educate on virus itself, dangers of reporting to work sick, cough etiquette). Other notable recommendations are to include hand sanitizer in every residents' room. Again, the DOH repeatedly links viewers to CDC guidelines for reducing the spread of COVID, proper PPE equipment, and other policies.

GEORGIA

E.O. issued February 28: Governor Kemp created a COVID-19 task force.

E.O. issued March 14: Governor Kemp authorized the Georgia national guard to begin preparation to assist COVID-19 response. Another order issued the same day declared a public health emergency in the state (the orders are no uniquely number). He authorized the Department of Health and multiple licensing boards for health care professionals to promulgate rules and waive licensure requirements.

E.O. issued April 2: shelter in place order. Also included guidance as to who was considered essential, what social distancing techniques should be implements and what businesses had to close.

E.O. issued April 8: directed towards long term care facilities, skilled nursing facilities, nursing homes, hospices, and assisted living communities. The order instructed them to follow CDC, CMS, and Georgia DOH guidance on fighting the virus. It also instructed them not to transfer every patient who tests posted to a hospital, restrict visitation, implement social distancing within the facility, and use standard, contact and droplet precaution with residents suspected of having COVID-19. Governor Kemp also extended the length of the public health emergency on this date through a second order.

Department of Public Health Recommendations (Recommended Standard of Care)
https://dph.georgia.gov/novelcoronavirus

The DOH has three separate pages for healthcare providers for guidance specific to their facility type. It should be noted that there is some overlap between the types.

Health Care Providers, Hospitals, and Laboratories: https://dph.georgia.gov/covid-19-health-care-providers-hospitals-laboratories

- Guidance for Health Care Professionals:
  - Review policies for infection prevention and make sure employees follow same
  - Review guidance for PPE use
  - Consider using telemedicine in lieu of physically seeing patients with mild symptoms
  - Ask about travel history and continue to follow CDC guidance
- Behavioral Health and Self Care
  - Follow CDC guidelines
  - Prepare for outbreaks of fear, stigma, depression, anxiety, and PTSD

Health Care Professionals: https://dph.georgia.gov/covid-19-guidance-healthcare-professionals

- Recommendations
  - Obtain travel history of all patients with fever and respiratory illness
  - If suspected, patient and provider should immediate use PPE

- CDC link on proper PPE provided
  - » Can contact the DPH and ask if testing can be done for the patient
  - » NP swabs are the preferred sample type
  - » Additional CDC links (no other specific recommendations made by Georgia DPH).

Long Term Care Facilities: https://dph.georgia.gov/covid-19-long-term-care-facilities

- Restrict all visitors and personnel except for certain compassionate care situations
- Cancel communal dinning and all group activities
- Establish social distancing infrastructure and promote proper hygiene
- Implement active screening for fever and respiratory illness of residents
- Screen all staff for same at beginning of their shift
- Implement system so staff can report potential exposure
- Reinforce adherence to infection prevention and control measure (handwashing, PPE)
- Consider implementing universal face masks while in the facility (but account of supply of masks)
- Standard, contact, and droplet precaution with eye protection when treating residents with undiagnosed respiratory infections
- Make sure disinfectants are available for frequent cleaning
- Multiple CDC links

HAWAII

General Information:

- Behavioral health guidance
  - https://health.hawaii.gov/bhhsurg/covid19-guidance/
- Hawaii Department of Health Disease Outbreak Control Division COVID-19 Website for Clinicians
  - Links to many CDC resources
  - https://health.hawaii.gov/coronavirusdisease2019/for-clinicians/
- Hawaii governor emergency proclamations
  - Important proclamations included in the timeline below.
  - https://governor.hawaii.gov/emergency-proclamations/
- Guidance on Healthcare Facility Transfers in the COVID-19 Pandemic
  - ALL transfers of lab-confirmed COVID-19 patients from acute to long-term care facilities (LTCFs) should ONLY occur when patients are medically stable and when there are facilities which show readiness to accept.
  - LTCFs should not transfer patients with suspected or confirmed COVID-19 infection unless medically indicated.
  - All patients with lab-confirmed COVID-19 should be appropriately isolated with contact and droplet precautions.
  - LTCFs must be prepared to receive patients diagnosed with COVID-19 from acute care settings by checking supplies of personal protective equipment (PPE) and the means to test patients.
    - https://health.hawaii.gov/coronavirusdisease2019/files/2020/04/Healthcare_Facility_Transfers_COVID-19_Pandemic.pdf

Timeline:

- March 4: Declaration of State of Emergency Issued
  - https://governor.hawaii.gov/wp-content/uploads/2020/03/2003020-GOV-Emergency-Proclamation_COVID-19.pdf
- March 16: Supplementary Proclamation of State of Emergency Issued
  - Allowing out of state licensed medical professionals to practice in Hawaii
    - https://governor.hawaii.gov/wp-content/uploads/2020/03/2003109-ATG_COVID-19-Supplementary-Proclamation-signed.pdf

Civil Liability:

- There has been no liability waiver enacted specifically for COVID-19.

Statute of Limitations:

- On March 20, 2020, the Chief Justice of the Supreme Court of the State of Hawaii issued an order stating "that all deadlines, time schedules, and filing requirements imposed by statutes, rules, or court orders, in all civil, criminal, and administrative matters in the circuit, district and family courts in the State of Hawai'i that expire between March 23, 2020 through and including April 3, 2020, are extended to April 6, 2020." Statutes of limitations are not expressly referenced.
- https://www.courts.state.hi.us/wp-content/uploads/2020/03/032019_scmf-20-_152_In_Re_COVID-19-deadline-extension.pdf

IDAHO

General Information:

- Idaho Resources for Healthcare Providers
  - » https://coronavirus.idaho.gov/resources-for-healthcare-providers/
- Idaho Resources for Long-Term Care
  - » https://coronavirus.idaho.gov/ltc/
- Idaho state agency rules waived/suspended to facilitate Idaho response to COVID
- 143 agency rules waived.
  - » https://coronavirus.idaho.gov/wp-content/uploads/sites/127/2020/03/COVID19-Idaho-Full-Rules-Suspended-Tracker-3.22.20-PM.xlsx
- Idaho Health Alert Network
  - » https://health.dhw.idaho.gov/IDHAN/Form/Msg/Health_Msg_list.aspx?Page=0

Timeline:

- February 26, 2020: Idaho Department of Health and Welfare Message re N95 Respirators for Healthcare Providers
  - » Outlines approaches to conserving supplies of N95 respirators while safeguarding staff.
    - https://healthandwelfare.idaho.gov/Portals/0/Health/Epi/Idaho%20Health%20Advisory_N95_COVID-19.pdf
- March 18: Board of Medicine Proclamation
  - » Issuance of temporary licenses to retired and out of state healthcare professionals.
    - https://coronavirus.idaho.gov/wp-content/uploads/sites/127/2020/03/Summary-of-Actions-taken-by-BOM-in-response-to-COVID-19.pdf
- March 26: Actions of Board of Medicine at 3/26 Meeting
  - » To extend renewal cycle for all Board licensees to 90 days after the Idaho State of Emergency is lifted by the Governor
  - » To allow graduated Respiratory Therapists and graduated Physician Assistants who have not yet completed their national certifying examination to qualify for the Board's 120-day COVID-19 temporary license with full practice privileges during the emergency.
  - » To allow MD and DO Residents-in-Training (who have completed their internship) to qualify for the Board's 120-day COVID-19 temporary license with full practice privileges during the emergency.
  - » To issue Guidelines regarding the prescription of chloroquine, hydroxychloroquine and azithromycin in line with Board of Pharmacy's amended rule 704.
    - https://coronavirus.idaho.gov/wp-content/uploads/sites/127/2020/03/Summary-of-Actions-taken-by-BOM-in-response-to-COVID-19.pdf
- March 27: Guidance for Novel Coronavirus Disease (COVID-19) Specimen Collection and Testing
  - » Includes prioritization of testing and specimen collection and submission.
    - https://www.siphidaho.org/psa/2020/mar/HAN-1811.pdf

- April 1: Guidance for Long-term Care Facilities
  - » Outlines what to do if the long-term care facility suspects a resident has COVID-19
    - https://coronavirus.idaho.gov/wp-content/uploads/sites/127/2020/04/Suspected-case-guidance-2020_4_1-FINAL.pdf
- April 10: Guidance for Infection Control and Prevention of Coronavirus Disease 2019 (COVID-19) in Residential Assisted Living Facilities
  - » Recommends that facilities follow the CDC and CMS guidance regarding infection control in long term care facilities.
    - https://coronavirus.idaho.gov/wp-content/uploads/sites/127/2020/04/COVID-19-Guidance-for-RALFs-revised-2020_4_10-FINAL.pdf

Civil Liability:

- There has been no liability waiver enacted specifically for COVID-19.

Statute of Limitations:

- No specific or statewide court orders regarding statute of limitations.
- https://isc.idaho.gov/Emergency%20Orders

ILLINOIS

https://www.dph.illinois.gov/covid19/governor-pritzkers-executive-orders-and-rules

- March 9, 2020
  - First Gubernatorial Disaster Proclamation: Declared all counties in the State of Illinois as a disaster area
- Clinical and Public Health Guidance for Managing COVID-19 Interim Guidance; March 18, 2020
  - Priority testing at IDPH laboratory is for hospitalized individuals with pneumonia not attributable to another etiology
  - Advise patients with mild respiratory illness to stay home
  - Use standard, contact, droplet precautions, and eye protection when caring for patients
  - Plan now for enhanced surge capacity at healthcare facilities
  - Healthcare facilities should implement and adhere to policies and practices that minimize exposures to respiratory pathogens. A continuum of infection control measures should be implemented before patient arrival, upon arrival, throughout the patient's visit, and until the patient's room is cleaned and disinfected. It is particularly important to protect individuals at increased risk for adverse outcomes from COVID-19. Triage personnel should have a supply of facemasks and tissues for patients with COVID-19-like illness that can be provided to them upon arrival. Source control can help to prevent transmission to others.
  - All healthcare workers are at some risk for exposure to COVID-19, whether in the workplace or in the community. All healthcare workers, regardless of whether they have had a known exposure, must self-monitor by taking their temperature twice daily and assessing for COVID-19-like illness. If healthcare workers develop any signs or symptoms of a COVID-19-like illness they should not report to work. If any signs or symptoms occur while working, healthcare workers should immediately leave the patient care area, inform their supervisor per facility protocol, and isolate themselves from other people
- **E.O. 2020-09**, effective March 19, 2020 until April 30, 2020
  - Section 1 defines "Telehealth Services" as patient treatment through electronic or telephonic methods and video technology
  - Section 2 requires all health insurance issuers regulated by the Department of Insurance to cover the costs of all Telehealth Services for medically necessary covered services and reimburse providers at the same rate as in-person visits
  - Section 5 allows Telehealth Services to be provided by any in-network physicians, physician assistants, optometrists, advanced practice registered nurses, clinical psychologists, prescribing psychologists, dentists, occupational therapists, pharmacists, physical therapists, clinical social workers, speech-language pathologists, audiologists, hearing instrument dispensers, other mental health providers, and other substance use disorder treatment providers, as long as they are licensed, registered, certified, or authorized to practice in the State of Illinois, regardless of whether or not the in-network provider was originally established prior to the COVID-19 pandemic in any designated telehealth network for the policy, contract, or certificate of health insurance coverage.
- April 1, 2020
  - Second Gubernatorial Disaster Proclamation: again declared all counties as a disaster area, remains in effect until April 30, 2020.

- **E.O. 2020-19**, effective April 1, 2020 until April 30, 2020
  - » Section 3 provides immunity from liability to Heath Care Facilities for any injury or death alleged to have been caused by any act or omission by the Health Care Facility, which occurred when the facility was engaged in the course of rendering assistance to the State in response to COVID-19; unless injury or death was caused by gross negligence or willful misconduct.
    - Section 1.a. "Health Care Facilities" are facilities licensed, certified, or approved by any State agency; State-operated Developmental Centers certified by the federal Centers for Medicare and Medicaid Services and licensed State-operated Mental Health Centers; Licensed community-integrated living arrangements; Licensed Community Mental Health Centers; Federally qualified health centers under the Social Security Act; and Any government-operated site providing health care services established for the purpose of responding to the COVID-19 outbreak.
    - Section 2 defines rendering assistance to include cancelling or postponing elective surgeries and procedures; and measures such as increasing the number of beds, preserving personal protective equipment, or taking necessary steps to prepare to treat COVID-19 patients.
  - » Section 4 provides immunity from liability to Health Care Professionals for any injury or death which occurred at a time when a Health care Professional was engaged in the course of rendering assistance to the State by providing heath care services in response to COVID-19; unless it is established that such injury or death was caused by gross negligence or willful misconduct.
    - Section 1.b. "Health Care Professional" means all licensed or certified health care or emergency medical services workers who (i) are providing health care services at a Health Care Facility in response to the COVID-19 outbreak and are authorized to do so; or (ii) are working under the direction of the Illinois Emergency Management Agency (IEMA) or DPH in response to the Gubernatorial Disaster Proclamations.
  - » Section 5 provides immunity from liability to any Health Care Volunteer from civil liability for any injury or death alleged to have been caused by any act or omission by such Health Care Volunteer in the course of rendering assistance in response to COVID-19; unless it is established that such injury or death was caused by willful misconduct.
    - Section 1.c. "Health Care Volunteer" means all volunteers or medical or nursing students who do not have licensure who (i) are providing services, assistance, or support at a Health Care Facility in response to the COVID-19 outbreak and are authorized to do so; or (ii) are working under the direction of IEMA or DPH in response to the Gubernatorial Disaster Proclamations.
- Emergency Medical Services (77 IAC 515), effective April 10, 2020
  - » Authorizes clinical nurse specialists to work in hospital emergency departments; permits nurse practitioners, clinical nurse specialists and physician assistants to provide backup coverage during critical situations.
- Currently no provisions for tolling of the SOL due to COVID-19

INDIANA

https://www.coronavirus.in.gov/

https://www.in.gov/gov/2384.htm

- March 6, 2020
  - » E.O. 20-02 declared a state of emergency
- March 16, 2020
  - » E.O. 20-04 established that Indiana would adhere to the guidance of the CDC
- **E.O. 20-05** March 19, 2020
  - » Commissioner requests insurers to institute a 60-day moratorium on policy cancellations for non-payment of premiums
  - » Request health insurers cover COVID-19 testing without requiring prior authorization
  - » Requests health insurers not increase prices or coverage costs involving medical care given for COVID-19
  - » Suspend the licensure requirement to permit health care providers licensed by another state to provide care in Indiana and be eligible for coverage from the Indiana Patient Compensation Fund
- March 23, 2020
  - » E.O 20-08 placed at stay at home order effective March 24, 2020 to April 6, 2020
- **E.O. 20-13** March 30, 2020
  - » Allowed the health commissioner to open temporary facilities for patient care; suspended the license requirements for the temporary facilities
  - » To preserve PPE, beginning April 1, 2020 all heath care providers, health care facilities, and veterinary practices are directed to cancel or postpone elective and non-urgent surgical or invasive procedures
  - » Telemedicine:
    - the prohibition against audio-only telemedicine is suspended for health care providers who are permitted to practice telemedicine and reimbursement will be allowed
    - IDOI shall request health insurers to provide coverage for expanded telemedicine services rendered under the authority of any E.O. issued for this public health emergency
- April 3, 2020
  - » E.O. 20-17 renewed E.O. 20-02 effective April 5, 2020 to May 5, 2020.
- Guidance Concerning Liability for Healthcare Providers and Facilities, April 3, 2020
  - » Facilities and individuals providing healthcare services in response to COVID-19 may not be held civilly liable for care provided in response to that emergency event unless the care resulted from gross negligence or willful misconduct, based on Indiana Code 34-30-13.5.
  - » To be immune, a provider must:
    - Have a license to provide healthcare services under Indiana law or the law of another state
    - Provides the healthcare service within the provider's scope of practice during the COVID-19 emergency declaration
  - » Providers that did not hold an active license prior to this outbreak, but are providing healthcare services in accordance with the requirements of E.O. 20-13 are licensed for purposes of this liability protection

- April 6, 2020
  - E.O. 20-18 replaced E.O. 20-08 and extended the stay at home order until April 20, 2020.
- Indiana does not explicitly toll the SOL, but trial courts may petition where necessary to toll for a limited time
  - Ex. http://co.starke.in.us/Policies/supremecourtorder.pdf

IOWA

https://iid.iowa.gov/covid-19

- March 9, 2020
  - » Signed 2020-32 Proclamation of Disaster Emergency

- March 13, 2020
  - » Telehealth is covered by Medicaid

- March 17, 2020
  - » Iowa Supreme Court tolled any statute of limitations for commencing an action in district court until May 4, 2020.

- PPE Shortage Order, effective April 9, 2020 and so long as the state of public health disaster emergency remains in effect unless sooner terminated
  - » Immunity covers actions related to optimizing PPE supply—not all actions relating to treating COVID-19 patients
    - Iowa law contains immunity provisions protecting persons, corporations, and other legal entities, and employees and agents of such persons, corporations, and other legal entities who provide medical care or assistance in good faith under the direction of the Department of Public Health during a public health disaster. Iowa Code § 135.147.
    - A health care provider, hospital, health care facility, and any other person, corporation, or other legal entity or employee of all such entities acting in compliance with this Order, or other guidance issued by the Iowa Department of Public Health or the Centers for Disease Control and Prevention related to optimizing PPE supply, in good faith is acting at the request of and under the direction of the Iowa Department of Public Health for purposes of the immunity provisions of Iowa Code section 135.147.

- April 16, 2020
  - » Proclamation 2020-42 proclaims a state of public health disaster emergency to exist throughout the state until April 30, 2020.

KANSAS

https://www.coronavirus.kdheks.gov/

- March 12, 2020
  - » State of disaster emergency proclamation

- March 18, 2020
  - » Kansas Supreme Court issued an administrative order that suspended until further order all statutes of limitations deadlines

- March 20, 2020
  - » E.O. 20-08 temporarily expands telemedicine insurance coverage until May 1, 2020 or until the state of disaster emergency expires, whichever is earlier
    - Payment or reimbursement shall be the same under telemedicine as delivered through personal contact

- March 28, 2020
  - » E.O. 20-16 established a statewide stay home order

- Currently there is no E.O. which explicitly extends immunity

KENTUCKY

Kentucky has yet to implement any state level immunity orders.

https://govstatus.egov.com/kycovid19

Telehealth Program LINK

Timeline

March 6, 2020 – State of emergency declared.

March 9, 2020 – Initiated changed to Medicaid, including eliminating prior authorization and any type of fees associated with testing or treatment for the coronavirus. *See* LINK

March 10, 2020 – Limited visits to long-term care facilities and nursing homes, except in end-of-life situations. *See* LINK

March 18, 2020 – Hospitals cease elective procedures. *See* LINK

March 17, 2020 – Long-Term Care facilities, Acute facilities, psychiatric facilities should restrict visitation with exceptions. *See* LINK

March 23, 2020 – EO to cease all elective medical procedures. It was previously recommended, but additional action became necessary when original guidance was not followed. *See* LINK

March 25, 2020 – Order to allow for more telehealth options in Kentucky than ever before. *See* LINK

Tolling of Statute of Limitations

No specific or statewide court orders regarding statute of limitations.

LOUISIANA

Executive Proclamation No. 25 JBE 2020 (effective March 11 through April 9) declared a state of public health emergency.

Executive Proclamation No. 29 JBE 2020 announced in part Louisiana state licensure laws, rules, and regulations for medical professionals and personnel are hereby suspended for those medical professionals and personnel from other states or other countries offering medical services in Louisiana to those needing medical services as a result of this disaster provided that said out-of-state or out-of-country medical professionals and personnel possess a current medical license in good standing in their respective state or country of licensure and that they practice in good faith and within the reasonable scope of his or her skills, training, or ability. This order was effective retroactively for the same dates announced above.

A state of emergency was official declared through Executive Proclamation No. 30 JBE 2020 (effective March 17 through April 13).

Telehealth restrictions were relaxed due to the virus for health care providers in Executive Proclamation No. 32 JBE 2020 Section 3 (effective March 19 through April 13).

Executive Proclamation No. 38 JBE 2020 Section 2 relaxed a number of restrictions including the requirement for collaborative practice agreements between physicians and APRNs, midwives, certified registered nurse anesthetist, clinical nurse specialists, and NPs. This same proclamation also relaxed/established the following:

- The requirement that certified registered nurse anesthetists provide treatment under the direction and supervision of a physician or dentist is suspended given they are acting within the scope of practice and have the knowledge and skill to do so
- Out of state RNs can practice so long as they are in good standing and licensed elsewhere
- Out of state practical nurses are allowed the same given they meet the same criteria
- Individual physicians licensed and with privileges in other states can practice in the state given
  - The Louisiana hospital verifies their credentials
  - The hospital keeps a list of all physicians who practice at their facility
  - The hospital gives written notice to the State Board of MEs stating the date the out of state physician stopped practicing in Louisiana
- A similar rule to the above for Physician Assistants
- And other relaxations/suspensions on ability to practice for non Louisiana certified health care workers.

All of these orders are effective March 31 until April 30, 2020.

The Governor extended the state of emergency until April 30 by Proclamation No. 41 JBE 2020.

Note: There have been no orders or proclamations that address healthcare worker immunity for civil actions related to COVID-19.

Potentially Applicable Statutes:

La. Rev. Stat. Ann. § 37:1731 provides for another "Good Samaritan" similar to Florida. It involves a similar requirement that the treatment is "gratuitously" rendered – making it appear that it must be volunteer work and not for payment.

Department of Health Recommendations (Recommended Standard of Care)
http://ldh.la.gov/index.cfm/newsroom/detail/5407

January 28: DOH posted information related to the identification of COVID-19 cases
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/2019-nCoV_HCGuidance_1_26.pdf

February 3: DOH posted a detailed guideline for preventing infections and the further spread of the virus. It recommends many actions such as wearing PPE, proper hygiene, restricting visitors to those suspected of infection, etc. It appears many of these best practices were taken from CDC sources.
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/Coronavirus_Update_02032020.pdf

February 28: DOH posted an updated guideline for handling Persons Under Investigation (PUIs) for having COVID-19. More specifically, it included among other things requirements to inquiry about the PUI's recent travel history and contact the state to see if testing is available for that individual and a specimen is needed.
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/LA_HAN_PUI_Criteria_COVID-19.pdf

March 2: DOH released a guideline for preventing the spread of the virus specifically for long term care facilities.
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/CDC_LTCF.pdf

March 5: CMS guidance for hospital and nursing facilities was posted by the DOH. These memos answered FAQs posted about the virus and the specific type of care facilities. They are drafted under Louisiana specific letter heads, but appear to contain information from the CDC.
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/Hospital_Guidance_03052020.pdf
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/NH_guidance_03052020.pdf

March 10: DOH posted the CMS's updated guideline on preventing COVID-19 spread in nursing homes. This revised version appears to emphasize screening and restricting visitors.
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/QSO20-14_COVID-19_NursingHomes_REVISED_03092020_508.pdf

Also on March 10, the DOH sent a letter advising health care providers about the new availability of testing and process for applying for same.
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/LA-HAN_Update_Availability_State_Commercial_COVID19_Testing.pdf

March 11: DOH sent out CMS recommendations for preventing the spread of the virus in dialysis facilities. Again, the Louisiana DOH was merely posting CMS information/guidance for its health care providers to follow.
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/CMS_Guidance_ESRD.pdf
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/COVID_19_Guidance_Control_Prevention_Dialysis_Facilities_03102020.pdf

March 12: The DOH issued an order ceasing all non essential, vital, or necessary visitors to health care facilities for a 30 day period.
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/Visitor_Restriction_03122020.pdf

March 13: DOH sent an updated/revised visitor restriction memo. The revised memo appears to more clearly define who may be deemed "essential, vital, or necessary" and who cannot be allowed even if they are essential because the pose a higher risk of having the virus. Additionally, those who are allowed in must wear masks.
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/HSS_Memo_Update_VisitorRestriction_01312020.pdf

On the same date, the DOH announced the closing of adult day care providers, adult day healthcare providers, and PACE (?) providers in certain geographic areas.
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/HSS_Memo_Program_Closures_ADHC_ADC_PACE_03132020.pdf

March 15: Louisiana DOH issued another general guidance document. This reiterated basic concepts of proper hygiene, limiting physical contact, screening visitors and employees when arriving at work , and providing proper PPE equipment.
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/COVID_19_Protocol_ICF_Recommendations_03142020.pdf

March 16: DOH announced a new rule for nursing home visitation, superseding its March 13 order. This new order instructed those specific facilities to follow the CMS instructions issued on March 13. It includes restricted non essential visitors (with exceptions for situations such as end of life) and other general recommendation (canceling communal dinners, etc.)
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/LDH_Nursing_Homes_Visitor_Restrictions_CMSGuidance_03162020.pdf

March 19: The state agency issued an order effective immediately until April 13 which allowed hospitals to increase their bed capacity over the normal limit in case of emergency.
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/Increased_Hospital_Bed_Capacity_03192020.pdf

Also release on this date were links to both the CDC and CMS guidelines for elective surgeries and procedures.

March 21: DOH released new guidelines for non-governmental entities that require additional PPE. The memo instructs providers who to contact if their normal vendor cannot supply any more. It should be noted that the memo is available as a word document and must be downloaded.

March 22: DOH issued guidance on staffing for health care providers – specifically Home and Community Based providers. The memo included some recommendations to reduce the amount of workers being exposed. Some suggestions were to make remote work available for those who it is feasible and having fewer staffers work longer hours.
http://ldh.la.gov/assets/medicaid/hss/OCDD_EP_Checklist_For_Providers_03222020.pdf

Also on March 22, the DOH released a memo listing the requirements for Personal Care Attendant Agencies and Direct Support Professionals. Such workers were deemed essential and instructed that they must continue caring for patients even if they are suspected positive for COVID-19. If a patient was suspected positive, the DSP would only be allowed to treat them and no other patients. All home care providers were instructed to follow CDC best practices.
http://ldh.la.gov/assets/medicaid/hss/OAAS_OCDD_Memo_PCA_DSP_03222020.pdf

Additionally, on March 22 DOH sent another letter reminding adult day care providers, adult day health care providers and programs for all inclusive care for the elderly providers to close until April 12.
http://ldh.la.gov/assets/medicaid/hss/OAAS_OCDD_ADC_ADHC_PACE_Provider_Closure_03222020.pdf

Another letter directed towards nursing facilities about the availability of PPE was also dated March 22. They changed the process for applying to the state for additional supplies.
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/PPE_Requests_03222020.pdf

Finally, on March 22 the DOH sent a memo to all providers and health care professionals announcing certain orders. Those orders include: postponing all non essential medical and surgical procedures, and switching all in person health services to telehealth.
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/LDH_Updated_Medical_Surgical_Procedures_03212020.pdf

March 24: DOH sent a memo to all hospitals and nursing facilities directing them to screen residents before admission.
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/LDH_MEMO_Re_PASRR_1135_Waiver_Final_03242020.pdf

March 25: "Facility need review" application deadline was extended 30 days
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/COVID_19_Suspension_of_FNR_03242020.pdf

March 26: DOH prohibited hospital discharges to nursing facilities for certain types of patients. This was due to the shortage of PPE in nursing facilities.
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/LDH_MEMO_re_Hospital_Discharges_to_NF_03262020.pdf

March 27: Exemption to 45 home leave day limitations granted for Intermediate Care Facilities and Individuals with Intellectual Disabilities providers.
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/OCDD_P20015_ICF_IID_Leave_Joint_Memo03272020.pdf

March 30: Guidance for substance Abuse Disorder Providers announced for telehealth.
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/Outpatient_SU_Services_Telehealth.pdf

March 31: Executive Proclamation 38 JBE 2020 announced. See above.
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/Proclamation_38_JBE_2020.pdf

April 1: Memo attaching link to CDC guidance on Emergency Medical Treatment And Labor Act.
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/MEMO_HOSPITAL_CAH_EMTALA_04012020.pdf

April1: Memo attaching link to CDC guidance on infection prevention specifically in Intermediate Care Facilities and Psychiatric Residential Treatment Facilities
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/MEMO_ICF_PRTF_04012020.pdf

April 1: Memo attaching link to CDC guidance on infection prevention for outpatient facilities
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/MEMO_ASC_CORF_CMHC_OPT_RHC_FQHC_04012020.pdf

April 1: Memo attaching link to CDC guidance on infection prevention for hospitals
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/MEMO_HOSPITAL_CAHS_04012020.pdf

April 1: Memo attaching link to Revised CDC guidance on infection prevention for dialysis facilities
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/MEMO_ESRD_04012020.pdf

April 7: Emergency orders issued above extended to April 30
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/LDH_Emergency_Order_Extended_to_04302020.pdf

April 13: Memo directing nursing home facilities to coordinate guidance from CDC and CMS for best and most effective practices to prevent infection.
http://ldh.la.gov/assets/medicaid/hss/docs/Coronavirus_2019/COVID19_NH_IPC_ASSESSMENT_ACTIVITY_0410202.pdf

MAINE

There are no Orders or pending Acts in Maine to establish broad civil liability for health care providers during the COVID-19 pandemic. However, Maine is one of seventeen states that has enacted the **Uniform Emergency Volunteer Health Practitioners Act** which grants civil immunity to out-of-state licensed health professionals for gratuitous care provided in a declared emergency.

Maine Timeline/Maine CDC Timeline

- January 21, 2020: Maine CDC issues update and guidance on outbreak of 2019 Novel Coronavirus
- January 31, 2020: Maine CDC issues updated definition for patients under investigation for 2019 Novel Coronavirus
- February 4, 2020: Maine CDC issues update and interim guidance on outbreak of 2019 Novel Coronavirus
- February 28, 2020: Maine CDC issues updated COVID-19 patients under investigation criteria
- March 5, 2020: Maine CDC issues updated COVID-19 Testing Criteria
- March 9, 2020: Maine CDC issues guidance regarding preparation for community transmission of COVID-19 in Maine
- March 9, 2020: Maine CDC issues COVID-19 guidance for long-term care facilities
- March 15, 2020: Proclamation of State of Civil Emergency to Further Protect Public Health
  - » Recommendation to postpone all non-urgent medical procedures, elective surgeries, and appointments at hospitals and health care providers across the state until further notice
  - » Restricting visitors and all non-essential health care personnel to long-term care facilities except for certain compassionate care services
- March 15, 2020: Maine CDC issues actions to take now for community transmission of COVID-19
- March 16, 2020: Maine CDC issues updated guidance for COVID-19 testing
- March 19, 2020: Maine CDC issues updated guidance for COVID-19 prioritization of testing and discontinuation of home isolation
- March 20, 2020: Executive Order No. 16
  - » An Order Suspending Provisions of Certain Health Care Professional Licensing Statutes and Rules in Order to Facilitate the Treatment and Containment of COVID-19
- March 24, 2020: Executive Order No. 19
  - » An Order Regarding Essential Businesses and Operations
- April 7, 2020: Timeline of EO 19 Extended by Executive Order 19A
- March 26, 2020: Executive Order No. 23
  - » An Order Suspending Provisions of the Maine Pharmacy Act and Related Rules in Order to Facilitate the Continuation of Out-of-State Clinical Trials of Investigational Drugs during the COVID-19 Pandemic
- March 30, 2020: Executive Order No. 27
  - » An Order Regarding State Certified Hypodermic Apparatus Exchange Programs
- March 31, 2020: Executive Order No. 28
  - » An Order Regarding Further Restrictions on Public Contact and Movement, Schools, Vehicle Travel, and Retail Business Operations

- April 10, 2020: EO 28 updated by Executive Order 28-A
- April 6, 2020: Executive Order No. 35
  - » An Order Suspending Enforcement of the Provisions of Certain Licensing Statutes and Rules in Order to Facilitate Health Care and Veterinary Care During the State of Emergency Created by COVID-19
- April 10, 2020: Executive Order No. 38
  - » An Order Regarding the Expiration of Optometric Lens Prescriptions

MARYLAND

https://coronavirus.maryland.gov/pages/provider-resources

https://governor.maryland.gov/covid-19-pandemic-orders-and-guidance/

No specific EO addressing expressed immunity at this time.

Timeline

March 5, 2020 — A state of emergency and catastrophic health emergency was proclaimed.

March 6, 2020 – Criteria to prioritize testing. *See* LINK

March 16, 2020 – "Health Care Matters" Order granted interstate reciprocity for healthcare licenses, reactivated inactive licenses, and expanded the scope of practice for healthcare practitioners. *See* LINK

March 19, 2020 – Augmenting the emergency medical services workforce. *See* LINK

March 21, 2020 – Telephonic Services Guidelines for General Health Care Services. *See* LINK

March 23, 2020 – Secretary of Health issues a Directive and Order Regarding Various Healthcare Matters related to testing prioritization and resource allocation. *See* LINK

April 1, 2020 – Health care practitioners authorized to provide services via telehealth. *See* LINK

April 1, 2020 – Determining that disability services personnel are health care providers necessary for Maryland's response to COVID-19. *See* LINK

April 5, 2020 – Authorizing actions necessary to monitor, treat, prevent, and reduce the spread of, and suppress COVID-19 in nursing homes and other similar facilities. *See* LINK

Tolling of Statute of Limitations

Effective March 16, 2020, statutes of limitations shall be tolled. *See* LINK

MASSACHUSETTS

On April 8, 2020 the Governor of Massachusetts filed a bill for consideration entitled **"An Act to Provide Liability Protections for Health Care Workers and Facilities During the COVID-19 Pandemic."** The Governor's goal with this Act was to supplement the liability protections provided by the Federal PREP Act. The legislation aims to protect health care professionals, including doctors, nurses, and emergency medical technicians, and certain health care facilities from liability and suit when they care they provide is impacted by COVID-19. The legislation was filed as **emergency law,** necessary for the immediate preservation of public health and convenience.

The legislative Act would provide immunity from suit and civil liability to health care professionals and health care facilities for any damages alleged to have been sustained by an act or omission by the health care professional or health care facility in the course of providing health care services during the period of COVID-19. The Act states that immunity only arises provided that:

> …the health care facility or health care professional is arranging for or providing health care services pursuant to a COVID-19 emergency rule and in accordance with other applicable law; arranging for or providing care or treatment of the individual was impacted by the health care facility's or health care professional's decisions or activities in response to or as a result of the COVID-19 outbreak or COVID-19 emergency rules; and the health care facility or health care professional is arranging for or providing health care services in good faith.

Importantly, the immunity does not apply if the damage was caused by act or omission constituting gross negligence, recklessness, or conduct with an intent to harm by a health care facility or health care professional providing health care services. Further, the immunity does not apply to consumer protection actions brought by the Attorney General nor does it apply to false claims actions brought by or behalf of the Commonwealth.

The Act extends immunity from suit and civil liability to **volunteer organizations** where the alleged damage arises from use of the facility for the commonwealth's response and activities related to the COVID-19 emergency, unless it is established that the alleged damages were the result of the organization's gross negligence, recklessness, or conduct with an intent to harm

If the Act is passed, the liability applies to all claims based on acts or omissions that occur or have occurred **during the effective period of the COVID-18 emergency**, as declared on **March 10, 2020,** and until terminated or rescinded.

The term "**health care services**" is defined as the treatment, diagnosis, prevention or mitigation of COVID-19; the assessment or care of an individual with a suspected case of COVID-19; or the care of any other individual who presents at a health care facility or to a health care professional during the COVID-19 emergency.
The term "**health care facility**" means hospitals, including acute and chronic disease rehabilitation hospitals; state hospitals, mental health centers and other mental health facilities under control of the Department of

Mental Health; hospitals operated by the Department of Public Health; psychiatric hospitals; skilled nursing facilities; assisted living residences; rest homes; community health centers; home health agencies that participate in Medicare; or a site designated by the commissioner of public health to provide COVID-19 health care services, including, without limitation, step-down skilled nursing facilities, field hospitals; and hotels.

The term "**health care professional**" is defined as an individual, whether acting as an agent, volunteer, contractor, employee, or otherwise, who is authorized to provide health care services pursuant to licensure or certification by the Board of Registration in Medicine, the Board of Registration in Nursing, the Board of Respiratory Care, the Bard of Registration of Nursing Home Administrators, the Board of Registration in Pharmacy, the Board of Registration of Physician Assistants, the Board of Registration of Allied Health Professionals, the Board of Allied Mental Health and Human Services Professions, the Board of Registration of Social Workers, and the Board of Registration of Psychologists; a student or trainee in his or her approved medical professional services academic training program; a nursing attendant or certified nursing aide; certified, accredited, or approved to provide emergency medical services; a nurse or home health aide employed by a home health agency that participates in Medicare; providing health care services within the scope of authority or license permitted by a COVID-19 emergency rule; or a health care facility administrator, executive, supervisor, board member, trustee or other person responsible for directing supervising or managing a health care facility or its personnel.

As of April 16, 2020, the Bill was reported favorably by the committee on Financial Services and referred to the committee on Senate Ways and Means

Massachusetts Timeline

- March 4, 2020: Department of Public Health issues guidance letter regarding updated guidance on strategies to optimize use of personal protective equipment (PPE)
- March 10, 2020: Governor declares State of Emergency to support the Commonwealth's response to COVID-19
- March 13, 2020: Department of Public Health issues guidance for clinical laboratories regarding clinical and epidemiologic criteria for COVID-19, specimen collection, testing, and submission to the Massachusetts State Public Health Laboratory
- March 15, 2020: Department of Public Health issues Elective Procedure Order
- March 17, 2020: Department of Public Health issues guidance memo regarding the elective procedures order
- March 15, 2020: Department of Public Health issues Hospital Visitor Restrictions Order
- March 16, 2020: Department of Public Health issues guidance on Hospital Visitor Restrictions Order
- March 17, 2020: Department of Public Health issues Emergency Order regarding credentialing and licensed staff procedures orders
- March 18, 2020: Department of Public Health issues an order regarding the flexible reassignment of Physicians Assistants
- March 19, 2020: Department of Public Health issues guidance regarding Health Care Personnel with Potential Exposure to Patients with COVID-19
- March 22, 2020: Department of Public Health issues guidance regarding the implementation of alternative acute inpatient care space during the COVID-19 state of emergency

- March 23, 2020: Governor issues Emergency Order requiring all employees who do not provide COVID-19 essential services to close their physical workplaces and facilities to workers, customers, and the public from March 24 to April 7.
  - » Exempt industries include healthcare, public safety, groceries and take-out restaurants, utilities and infrastructure, and other essential services
- March 31, 2020: Emergency Order extended until May 4, 2020.
- March 26, 2020: Department of Public Health issues an emergency order regarding the independent prescriptive practice for advanced practice registered nurses (APRN)
- April 2, 2020: Department of Public Health guidance regarding integrating anesthesia staff and anesthesia machines into COVID-19 Intensive Care Work Streams
- April 2, 2020: Department of Public Health issues revised guidance for allowing asymptomatic health care personnel and emergency medical technicians to work following a known exposure to COVID-19
- April 2, 2020: Department of Public Health issues Persons Under Investigation (PUI) Criteria
- April 3, 2020: Department of Public Health issues licensing changes during the State of Emergency
- April 3, 2020: Department of Public Health issues authorization and guidelines for alternate space for treatment of patients during COVID-19 emergency
- April 3, 2020: Department of Public Health issues guidance regarding alternative acute care space during the COVID-19 state of emergency
- April 3, 2020: Executive Office of Health and Human Services (EOHHS) issues Emergency Order authorizing licensed pharmacies to create and sell hand sanitizer over the counter
- April 5, 2020: Department of Public Health issues guidelines regarding comprehensive personal protective equipment (PPE)
- April 7, 2020: Department of Public Health issues **Crisis Standards of Care**, Planning Guidance for the COVID-19 Pandemic
- April 7, 2020: Department of Public Health issued guidance to clinical laboratories which outlines changes to exempt list and definition of physician
- April 9, 2020: Governor issues Emergency Order Providing Accelerated Licensing of Physicians Educated in Foreign Medical Schools
- April 9, 2020: Governor issues Emergency Order Authorizing Nursing Practice by Graduates and Senior Students of Nursing Education Programs
- April 14, 2020: EOHHS issues guidance regarding expanded care capacity at sub-acute sites for COVID-19 patients
- April 17, 2020: EOHHS issues notice of dedicated care capacity at nursing facilities for COVID-19 facilities

MICHIGAN

https://www.michigan.gov/coronavirus/

- March 10, 2020
  - » E.O. 2020-4 declared a state of emergency
- March 12, 2020
  - » Michigan Governor announced that her administration will expand access to telemedicine by immediately allowing Medicaid beneficiaries to receive services in their home (https://www.michigan.gov/whitmer/0,9309,7-387-90499_90640-521549--,00.html)
- Currently no E.O. about Telehealth for patients and hospitals. E.O. 2020-34 requires all veterinary services to be performed by telemedicine from April 2, 2020.
- April 1, 2020
  - » **E.O. 2020-33** replaced E.O. 2020-4 and declared a state of emergency and a state of disaster which will terminate when emergency and disaster conditions no longer exist, or as required by law
    - Under MCL 30.401-.421 a state of emergency may only last for 28 days
    - A state of disaster allows for disaster relief workers
      - o Under MCL 30.311(4) authorized disaster relief workers and facilities are not liable for an injury sustained by reason of those services; this immunity does not apply to willful acts or gross negligence.
- April 14, 2020
  - » Michigan Department of Health and Human Services announced it is expanding testing criteria for COVID-19 to include individuals with mild symptoms
- April 15, 2020
  - » Michigan Department of Insurance and Financial Services announced it is prioritizing health insurance appeals related to a denial of coverage for COVID-19 testing or treatment
- There is no E.O. which explicitly extends immunity
- Currently there is no order expressly tolling the SOL

MINNESOTA

https://www.health.state.mn.us/diseases/coronavirus/

- March 13, 2020
  - » E.O. 20-01 declared a peacetime emergency
- March 16, 2020
  - » Department of Health adopts guidelines for providers of residential settings with at-risk residents. Including that facilities should restrict visitation of all visitors and non-essential health care personnel, except for certain compassionate care situations. (https://www.health.state.mn.us/ facilities/regulation/homecare/docs/covid031620.pdf)
- March 18, 2020
  - » S.F. 2334 Article 3 covers telemedicine services in response to COVID-19, expires February 1, 2021
    - Health carrier shall not exclude or reduce coverage for a health care service or consultation solely because the service or consultation is provided via telemedicine
    - "telemedicine" is defined as health care services or consultations delivered to a patient at the patient's residence
- March 25, 2020
  - » E.O. stay at home order effective March 27 to April 10
- April 7, 2020
  - » H.F. 4537 bill expands workers' compensation eligibility for emergency first responders and front line workers, including: doctors, nurses, firefighters, paramedics, police, long-term care workers, home health workers, correctional officers, and child care providers. Creates presumption that a COVID-19 infection is work-related unless the employer is able to prove that the infection happened elsewhere.
- April 8, 2020
  - » E.O. 20-32 allows the Commissioner of Health to establish temporary alternative health care facilities
  - » E.O. 20-33 extends stay home order until May 4, 2020
- April 13, 2020
  - » E.O. 20-35 extends the peacetime emergency for 30 days
- April 15, 2020
  - » H.F. 4556 bill ensures that Medicaid and MinnesotaCare enrollees will be able to receive health care in temporary sites. Ensures that anyone who is uninsured will be eligible for coverage for COVID-19 testing and 100% federal reimbursement for the clinic visit.
- Currently there is no specific order regarding statute of limitations
- Currently there is no specific order extending immunity

MISSISSIPPI

Executive Order No. 1457 - Designates the State Department of Health, in coordination with the Emergency Management Agency as the lead state agency, to coordinate emergency response activities related to the virus among the various state agencies and local governments.

Executive Order No. 1458 - Declares a State of Emergency as a result of the outbreak of the coronavirus (COVID-19).

Executive Order No. 1470 – Requires facilities to postpone all surgeries and procedures that are not immediately medically necessary to correct a serious medical condition, or to preserve the life of a patient.

Executive Order 1471 – Grants civil liability immunity to healthcare professionals while providing healthcare services in support of the state's Covid-19 response, absent a showing of malice, reckless disregard or willful misconduct.

I. Duration: April 10 through May 15
II. Definitions:
    a. Health Care Facilities mean (a) licensed or state approved hospitals, clinics, nursing homes, mental health centers, field hospitals or (b) other facilities designated by MSDH or Mississippi Emergency Management Agency (MEMA) for temporary use for the purposes of providing healthcare services in support of the State's COVID-19 response.
    b. Healthcare Professional" means an individual who is licensed, registered, permitted, or certified in any state in the United States to provide health care services, whether paid or unpaid, or any volunteer approved by MSDH or MEMA who
        a. Is providing health care services at a Healthcare Facility in response to the COVID-19 outbreak and is authorized to do so; or
        b. Is working under the direction of MEMA or MSDH in response to the March 14, 2020 Disaster Proclamation and as thereafter may be amended.

https://www.sos.ms.gov/content/executiveorders/ExecutiveOrders/1471.pdf

Department of Health Recommendations (Recommended Standard of Care)
https://msdh.ms.gov/msdhsite/_static/14,0,420,694.html

- An undated information sheet from the DOH detailing what information to include with a specimen when sending it in for testing. https://msdh.ms.gov/msdhsite/_static/resources/8502.pdf

- An undated guidance document that instructs health care providers to remain home if they are personally being tested. https://msdh.ms.gov/msdhsite/_static/resources/8550.pdf

- An undated guidance document taken from the CDC for workers who have potentially been exposed. https://msdh.ms.gov/msdhsite/_static/resources/8508.pdf

It should be noted that the DOH also provides a number of links to CDC sources, but little of their own recommendations/guidance.

MISSOURI

https://health.mo.gov/living/healthcondiseases/communicable/novel-coronavirus/
https://governor.mo.gov/actions/executive-orders

- March 13, 2020
  - » E.O. 20-02 declared a state of emergency that terminates on May 15, 2020
- March 18, 2020
  - » E.O. 20-04 allows executive agencies to waive or suspend regulations with the Governor's permission
- March 22, 2020
  - » Missouri Supreme Court suspended in-person proceedings but specified that it did not apply to any deadline or time limitations set by statute or constitutional provision (https://www.courts.mo.gov/page.jsp?id=153093)
  - » Department of Health orders to avoid gatherings of more than 10 people, avoid restaurants, and not visiting nursing homes, long-term care facilities, retirement homes, or assisted living homes unless to provide critical assistance
- March 23, 2020 Telehealth (https://dss.mo.gov/mhd/providers/pages/provtips.htm#200320telehealth)
  - » Medicare/Medicaid Section 1135 Waiver
    - Temporarily enroll providers enrolled with another state Medicaid agency or Medicare;
      - o Reimburse claims from out-of-state providers not enrolled in Missouri's Medicaid program for multiple dates of service;
      - o Enroll providers in Missouri Medicaid who are not currently enrolled with another state Medicaid agency or Medicare as long as certain requirements are met
    - Suspend prior authorization and medical necessity requirements and extend pre-existing prior authorizations;
    - Extends timeline for fair hearing appeals processes.
  - » Physicians may see new patients in addition to existing patients through telehealth. The patient co-payment is waived for any service provided through telehealth. Telehealth providers licensed in other states can provide services as long as they are licensed in the state in which they practice.
  - » Any licensed health care provider, enrolled as a MO HealthNet provider, may provide telehealth services if the services are within the scope of practice for which the health care provider is licensed. The services must be provided with the same standard of care as services provided in person.
  - » Telehealth services may be provided to a MHD participant, while at home, using their telephone. The originating site facility fee cannot be billed to MO HealthNet when the originating site is the participant's home.
  - » There is not a separate telehealth fee schedule. Reimbursement to health care providers delivering the medical service at the distant site is equal to the current fee schedule amount for the service provided.
  - » Hospitals may bill a facility fee for distant site services provided in their facilities; Rural health clinics may use either their RHC or non-RHC provider number when operating as a distant site.
- April 3, 2020
  - » Governor signs a stay at home order

- April 7, 2020
  - » Governor announces new rule 8 CSR 50-5.005 that presumes any first responder sickened by COVID-19 contracted the virus during official duties, will apply retroactively to the beginning of the outbreak (https://labor.mo.gov/sites/labor/files/8_CSR_50-5.005_Emergency_Final.pdf)
- April 11, 2020
  - » Governor temporarily allows Department of Health and Senior Services and Department of Commerce and Insurance to waive regulations requiring advanced practice registered nurses to practice with the collaborating physician continuously present for a least a month before providing health care of their own
- April 16, 2020
  - » Stay at home order extended until May 3, 2020
- Currently there is no specific order extending immunity
- Currently facilities are directed to follow CDC guidelines

MONTANA

General Information:

- Montana Department of Health and Human Services Information for Healthcare professionals
  - » Provides links to CDC and Montana-issued guidance (provided below in timeline)
  - » https://dphhs.mt.gov/publichealth/cdepi/diseases/coronavirusmt#9247810174-information-for-healthcare-professionals
- Montana Department of Health and Human Services Information for Long-term Healthcare Facilities
  - » Proves links to CDC-issued guidance.
  - » https://dphhs.mt.gov/publichealth/cdepi/diseases/coronavirusmt#9247810307-information-for-long-term-care-facilities
- Montana Department of Health and Human Services Information Infection Control and EMS Guidelines
  - » https://dphhs.mt.gov/publichealth/cdepi/diseases/coronavirusmt#9247810172-infection-control-and-ems-guidance
- Montana Health Alert Network
  - » https://dphhs.mt.gov/publichealth/han#1514810139-2020-han-messages

Timeline:

- March 12 (Executive Order 2-2020): Declaration of State of Emergency issued.
  - » https://governor.mt.gov/Portals/16/docs/2020EOs/EO-02-2020_COVID-19%20Emergency%20Declaration.pdf?ver=2020-03-13-103433-047
- March 23: Directive on Hospital Surge Capacity
  - » https://covid19.mt.gov/Portals/223/Documents/Directive%20on%20Hospital%20Surge%20Capacity%203%2023%2020.pdf?ver=2020-03-24-155023-970
- April 1 (effective retroactively to March 20): Suspension of Face to Face Requirements for Some Medicaid Programs
  - » Temporarily removes the face-to-face delivery requirements from the list of services provided in the notice.
    - https://dphhs.mt.gov/Portals/85/Documents/Coronavirus/provnoticesuspensionoffacetofacerequirements.pdf

Civil Liability:

- There has been no liability waiver enacted specifically for COVID-19.

Statute of Limitations:

- No specific or statewide court orders regarding statute of limitations.
- https://courts.mt.gov/local-virus-rules

NEBRASKA

http://dhhs.ne.gov/Pages/Coronavirus.aspx

- March 13, 2020
  - » Declared a state of emergency
- March 17, 2020 (http://dhhs.ne.gov/ Medicaid%20Provider%20Bulletins/Provider%20Bulletin%2020-06.pdf)
  - » Nebraska Medicaid is offering reimbursement for telephonic evaluation and management when they are already an established patient and are:
    - Beneficiaries who are actively experiencing mild symptoms of COVID-19 (fever, cough, shortness of breath) prior to going to the emergency department, urgent care, or other health care facility;
    - Beneficiaries who need routine, uncomplicated follow up and who are not currently experiencing symptoms of COVID-19; and,
    - Beneficiaries requiring behavioral health assessment and management.
  - » Must be rendered by a qualified health care professional, defined as a physician, nurse practitioner, or physician assistant actively enrolled in Nebraska Medicaid
- March 19, 2020
  - » Nebraska Department of health directive says no social gatherings of 10 or more until April 30
- **E.O. 20-12** March 31, 2020
  - » Allows hospitals to provide care and treatment in alternate locations; suspends the current licensed bed limit; suspends the requirement for the administrator to maintain adequate staff; eases requirements for hiring new staff
- Currently no orders regarding statute of limitations
- Currently no specific order extending immunity
- Currently no directives to care facilities, with each being able to implement its own rules while being encouraged to follow CDC guidelines

NEVADA

General Information:

- Nevada Health Response: Guidance for Healthcare Facilities and Laboratories
  - » Includes CDC, CMS, and State-issued guidance. State-issued guidance included below.
  - » https://nvhealthresponse.nv.gov/info/healthcare-facilities-and-laboratories/
- Nevada Health Response: Guidance for Healthcare Providers and First Responders
  - » Includes CDC, CMS, and State-issued guidance. State-issued guidance included below.
  - » https://nvhealthresponse.nv.gov/info/healthcare-providers-and-first-responders/
- Nevada Health Response: Guidance for Local Public Health Care Authorities & Tribe
  - » Includes CDC and State-issued guidance. State-issued guidance included below.
  - » https://nvhealthresponse.nv.gov/info/local-public-health-care-authorities-tribes/
- Crisis Standards of Care (updated April 2)
  - » 42 page document with crisis level guidance for COVID-19 for EMS, long term care facilities, behavioral health, telehealth, clinical management, PPE, and more.
    - https://nvhealthresponse.nv.gov/wp-content/uploads/2020/04/NV_DHHS_DPBH_CSCRecommendations_COVID-19_040220_ADA.pdf

Timeline:

- January 31: Novel Coronavirus (2019-nCoV) Interim Infection Prevention and Control
  - » Recommendations for Hospitalized Patients with Novel Coronavirus: Minimize exposure; adhere to standard, contact, droplet, and airborne precautions; manage visitor access and movement within the facility; monitor ill and exposed healthcare personnel; train and educate healthcare personnel.
    - http://dpbh.nv.gov/uploadedFiles/dpbhnvgov/content/Programs/OPHIE/dta/Hot_Topics/NV-DHHS-DPBH-OPHIE_InterimInfectionPreventionControlNovelCoronavirus_200131.pdf
- January 31: Interim Prehospital Guidance – 2019 Novel Coronavirus
  - » Guidance regarding patient transport, PPE, safe work practices, post-transport management of a contaminated vehicle, and follow-up of EMS personnel.
  - » http://dpbh.nv.gov/uploadedFiles/dpbhnvgov/content/Programs/OPHIE/dta/Hot_Topics/NV-DHHS-DPBH-OPHIE_InterimPrehospitalGuidanceNovelCoronavirus_200131.pdf
- March 12: Declaration of Emergency Issued
  - » http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-12_-_COVID-19_Declaration_of_Emergency/
- March 30: Guidance for Visitors to Health Care Facilities
  - » Guidance to restrict visitation to health care facilities. Health care facilities should limit visitors only for those who aid- and/or provide important services to patients.
    - https://nvhealthresponse.nv.gov/wp-content/uploads/2020/04/VIsitors-Guide-to-Healthcare-Facilities_3.30.2020.pdf

- March 31: Guidance for Public Health Management of Healthcare Personnel (HCP) with Potential Exposure to Patients with COVID-19 in Healthcare Settings
  - » Asymptomatic HCPs with COVID-19 exposure should be allowed to continue to work but should be tested 7 days after exposure and should use proper PPE.
  - » HPCs that develop even mild symptoms consistent with COVID-19 should cease patient care activities.
    - https://nvhealthresponse.nv.gov/wp-content/uploads/2020/04/3.31.2020_Guidance-for-HCP-with-Potential-Exposure-to-COVID-19-Patients-1.pdf
- April 1: Emergency Directive 011
  - » Suspending some licensing requirements for medical professionals
    - http://gov.nv.gov/News/Emergency_Orders/2020/2020-04-01_-_COVID-19_Declaration_of_Emergency_Directive_011/

Civil Liability:

- Emergency Declaration 4/1/2020 effective until modified or rescinded
  - » "All providers of medical services related to COVID-19 are performing services for emergency management subject to the order or control of and at the request of State Government and shall be afforded the immunities and protections set forth in NRS 414.110, subject to the same exclusions therein..."
    - Governor's Declaration of Emergency Directive 011
    - http://gov.nv.gov/News/Emergency_Orders/2020/2020-04-01_-_COVID-19_Declaration_of_Emergency_Directive_011/
- An Emergency Management Act (NRS 414.110)
  - » "All functions under this chapter and all other activities relating to emergency management are hereby declared to be governmental functions. Neither the State nor any political subdivision thereof nor other agencies of the State or political subdivision thereof, nor except in cases of willful misconduct, gross negligence, or bad faith, any worker complying with or reasonably attempting to comply with this chapter, or any order or regulation adopted pursuant to the provisions of this chapter, or pursuant to any ordinance relating to any necessary emergency procedures or other precautionary measures enacted by any political subdivision of the State, is liable for the death of or injury to persons, or for damage to property, as a result of any such activity..."

Statute of Limitations:

- Declaration of Emergency Directive 009 (April 1)"Any specific time limit set by state statute or regulation for the commencement of any legal action is hereby tolled from the date of this Directive until 30 days from the date the state of emergency declared on March 12, 2020 is terminated."
  - » http://gov.nv.gov/News/Emergency_Orders/2020/2020-04-01_-_COVID-19_Declaration_of_Emergency_Directive_009_(Revised)/

NEW HAMPSHIRE

There are no Orders or pending Acts in New Hampshire to establish broad civil liability for health care providers during the COVID-19 pandemic.

New Hampshire Timeline

- March 13, 2020: Executive Order 2020-04
  - » An Order Declaring a State of Emergency due to Novel Coronavirus (COVID-19)
- March 18, 2020: Emergency Order #8
  - » Temporary Expansion of Access to Telehealth Services to Protect the Public and Health Care Providers
- March 16, 2020: New Hampshire Division of Public Health Services issued COVID-19 guidance for long-term care facilities
- March 18, 2020: Office of Professional Licensure and Certification issues guidance on telehealth during the COVID-19 State of Emergency
- March 23, 2020: Emergency Order #13
  - » Temporary Allowance for NH Pharmacists and Pharmacies to Compound and Sell Hand Sanitizer Over the Counter and to Allow Pharmacy Technicians to Perform Non-Dispensing Tasks Remotely
- March 23, 2020: Emergency Order #14
  - » Temporary Authorization for Out-of-State Pharmacies to Act as a Licensed Mail-Order Facilities within the State of New Hampshire
- March 23, 2020: Emergency Order #15
  - » Temporary Authorization for Out of State Medical Providers to Provide Medically Necessary Services and Provide Services through Telehealth
- March 27, 2020: New Hampshire Division of Public Health Services issued a presentation regarding long term care and assisted living facilities dealing with COVID-19
- March 29, 2020: New Hampshire Division of Public Health Services issues guidance regarding immediate actions to take in response to residential institutional outbreaks of COVID-19
- April 1, 2020: New Hampshire Department of Health and Human Services (DHHS) Division for Behavioral Health issues COVID-19 Emergency Guidance #3
- April 2, 2020: DHHS issues COVID-19 Emergency Guidance #4 – Provider Signature and Review Requirements for Treatment Plans (Division of Behavioral Health)
- April 3, 2020: DHHS issues COVID-19 Emergency Guidance #2 – Waiver/Non-Enforcement of Client Signature Requirements (Division for Behavioral Health)
- April 3, 2020: Executive Order 2020-05
  - » Extension of State of Emergency Declared in Executive Order 2020-04
- April 9, 2020: Emergency Order #30
  - » Temporary Requirements regarding Healthcare Provided in Alternate Settings
- April 14, 2020: Division of Public Health Services issues Universal Mask Recommendation for Long-Term Care and Assisted Living Facilities

- April 16, 2020: Emergency Order #31
  - » Establishment of COVID-19 Long Term Care Stabilization Program
- April 17, 2020: Emergency Order #33
  - » Activation of the New Hampshire Crisis Standards of Care Plan to act as a guide for how the State will move forward in creating the Crisis Standards of Care Guidelines

NEW JERSEY

https://www.nj.gov/health/legal/covid19/

Pursuant to EO. 112 (Issued April 1, 2020)

Definition(s)

This order applies to any individual holding a license, certificate, registration or certification to practice a healthcare profession or occupation in New Jersey, including but not limited to any advanced practice nurse or physician assistant acting outside of the scope of theirpenn ordinary practice.

Immunity extends to any health care facility, within the meaning of NJSA 26:13-2, for actions of their agents, officers, employees, representatives or volunteers. "Health care facility" means any non-federal institution, building or agency, or portion thereof whether public or private for profit or nonprofit that is used, operated or designed to provide health services, medical or dental treatment or nursing, rehabilitative, or preventive care to any person. Health care facility includes, but is not limited to: an ambulatory surgical facility, home health agency, hospice, hospital, infirmary, intermediate care facility, dialysis center, long-term care facility, medical assistance facility, mental health center, paid and volunteer emergency medical services, outpatient facility, public health center, rehabilitation facility, residential treatment facility, skilled nursing facility, and adult day care center. Health care facility also includes, but is not limited to, the following related property when used for or in connection with the foregoing: a laboratory, research facility, pharmacy, laundry facility, health personnel training and lodging facility, patient, guest and health personnel food service facility, and the portion of an office or office building used by persons engaged in health care professions or services.

Timeframe Immunity Extends

Immunity conferred by this Order applies retroactively to March 9, 2020 (date of PHE declaration) to the end of the Public Health Emergency or State of Emergency, whichever is longer (date unavailable at this time).

Scope of Immunity

The Order provides immunity from civil liability for any damages alleged to have been sustained as a result of the individual's act or omissions undertaken in good faith in the course of providing healthcare services in support of the COVID-19 response. Given the inclusion of "Healthcare Facilities," it appears immunity is extended to all claims of vicarious liability. Such immunity shall not extend to acts or omissions that constitute a crime, actual fraud, actual malice, gross negligence or willful misconduct.

Timeline

March 9, 2020 – EXECUTIVE ORDER NO. 103: Gov. Murphy declared State of Emergency, Public Health Emergency to strengthen State preparedness to contain the spread of COVID-19. *See* LINK

March 13, 2020 – Department of Health no longer requires prior Department approval of temporary waivers for a licensed inpatient facility: (1) exceeding licensed bed capacity, (2) bed additions requiring prior Certification of Need approval, (3) physical space requirements, or (4) staff qualification requirements. *See* LINK

March 13, 2020 – Department of Health no longer requires prior Department approval of temporary waivers for the following requirements for licensed Ambulatory Care Facility Administrators and licensed Adult and Pediatric Day Care Facility Administrators: (1) physical space requirements, or (2) staff qualifications requirements. *See* LINK

March 13, 2020 – Department of Health no longer requires prior Department approval of temporary waivers for the following health services from Home Health Agencies and Hospices: (1) providing home health services to patients outside of the approved license/CN geography, or (2) providing hospice services to patients outside the hospice service area. *See* LINK

March 14, 2020 at 5 pm – SUPERSEDED – Mandatory guidelines for visitors and facility staff to be followed by licensed Dementia Care Facilities, Long-Term Care Facilities, and Pediatric Transitional Care Facilities. NOTE: Directive which claims to supersede is unavailable on the DOHs website. *See* LINK

March 17, 2020 – Authorization for paramedics to work in hospital setting. *See* LINK

March 16, 2020 – Mandatory guidelines for visitors and facility staff to be followed by Mental Health Programs and Substance Use Disorder Programs. *See* LINK

March 19, 2020 – Healthcare providers authorized to conduct COVID-19 testing through swabbing. *See* LINK

March 26, 2020 – Department of Health waived routine third party inspections of licensed facilities. *See* LINK

March 27, 2020 – Long-Term Care Facilities authorized to hire out-of-state certified nurses. *See* LINK

March 28, 2020 – With respect to Long-Term Care Facilities, Department of Health: (1) permitted registered medical technicians and Certified Home Health Aides to function in the role of CNAs, (2) waived mandatory nurse staffing amounts and availability, (3) waived mandatory staff qualifications, and (4) waived discharge planning requirements. Note: Facilities told to document attempts to meet the staffing standards. *See* LINK

March 29, 2020 – Only one support person may be present throughout labor, delivery, and the immediate postpartum period. *See* LINK

March 31, 2020 – Assisted Living Facilities, Assisted Living Programs and Comprehensive Personal Care Homes authorized to hire out-of-state certified nurse aids. *See* LINK

April 1, 2020 – EXECUTIVE ORDER 112: Gov. Murphy issued a broad-ranging decree designed to provide legal protections to healthcare providers responding to the State's COVID-19 response. *See* LINK

April 4, 2020 – Department of Health issued infection prevention and control of COVID-19 practices to be implemented by licensed Assisted Living Residences. *See* LINK

April 7, 2020 – Department of Health waived nurse staffing levels, pre-employee requirements, and discharge planning requirements for licensed Hospitals. *See* LINK

**April 11, 2020* – EXECUTIVE DIRECTIVE NO. 20-006: A health care facility that adopts the Department of Health's *Allocation of Critical Care Resources During a Public Health Emergency*, as well as the health care facility's agents, officers, employees, servants, representatives and volunteers, shall not be civilly liable for any damages arising from an injury to a patient caused by any act or omission pursuant to, and consistent with, such policy. *See* LINK

April 13, 2020 – Department of Health issued an Emergency *Conditional* Curtailment of Admissions Order to all nursing homes and assisted living facilities. *See* LINK

April 14, 2020 – Long-term care facilities are authorized to temporarily add ventilator beds into service when necessary to treat those affected by COVID-19. *See* LINK

April 14, 2020 – Rule waiver/modification permits long-term care facilities, assisted living facilities, assisted living programs and comprehensive personal care homes to temporarily employ individuals who complete and pass the 8-hour Temporary Nurse Aid Training Program and who have demonstrated competency using the program's skills competency checklist. *See* LINK

April 15, 2020 – Personal Care Assistants and Certified Medical Assistants are temporarily permitted to function in the role of a Certified Nurse Aide in licensed long-term care facilities. *See* LINK

April 17, 2020 – Requirements for a joint protocol and the supervision standards for a Certified Registered Nurse Anesthetist (CRNA) is hereby waived; and the requirement for a supervision by an anesthesiologist for a CRNA in ambulatory surgery centers is herby waived. *See* LINK

April 17, 2020 – Telemedicine permitted to replace on-site visit by Health Care Practitioner. *See* LINK

April 17, 2020 – Outpatient dialysis providers shall be required to adhere to the Centers for Medicare & Medicaid Services (CMS) rules for dialysis staffing. *See* LINK

Statute of Limitations

As of March 27, the tolling period has been extended to April 26. *See* LINK

NEW MEXICO

General Information:

- New Mexico Department of Health Information for Clinicians
  - » Includes links to CDC-issued guidance.
    - https://cv.nmhealth.org/clinicians/

Timeline:

- March 11: Declaration of Public Health Emergency issued.
  - » https://www.governor.state.nm.us/wp-content/uploads/2020/03/Executive-Order-2020-004.pdf
- March 13: Public Health Order limiting nursing home visitations due to COVID-19
  - » https://cv.nmhealth.org/wp-content/uploads/2020/03/031320-DOH-PHO-r.pdf
- March 24: Public health order issued imposing temporary restrictions on non-essential health care services, procedures, and surgeries; providing guidance on those restrictions; and requiring a report from certain health care providers.
  - » https://cv.nmhealth.org/wp-content/uploads/2020/03/3_24_PHO_1.pdf
- April 2: Executive Order Allowing Certain Canadian Nurses to Provide Care During the Pendency of the COVID-19 Pandemic
  - » https://www.governor.state.nm.us/wp-content/uploads/2020/04/Executive-Order-2020-020.pdf

Civil Liability:

- There has been no liability waiver enacted specifically for COVID-19.

Statute of Limitations:

- No specific or statewide court orders regarding statute of limitations.
- https://nmcourts.gov/covid-19.aspx

NEW YORK

On April 3, 2020, Governor Cuomo signed S07506 which generally enacts into law an updated budget for the State of New York for the 2020-2021 fiscal year. Folded into the budget is the **Emergency or Disaster Treatment Protection Act**. The purpose of this Act is to promote the public health, safety and welfare of all citizens by broadly protecting the health care facilities and health care professionals in New York from liability that may result from treatment of individuals with COVID-19 under conditions resulting from circumstances associated with the public health emergency. The Act states:

> Notwithstanding any law to the contrary…any health care facility or health care professional shall have immunity from any liability, civil or criminal, for any harm or damages alleged to have been sustained as a result of an act or omission in the course of arranging for or providing health care services if: (a) the health care facility or health care professional is arranging for or providing health care services pursuant to a COVID-19 emergency rule or otherwise in accordance with applicable law; (b) the act or omission occurs in the course of arranging for or providing health care services and the treatment of the individual is impacted by the health care facility's or health care professional's decisions or activities in response to or as a result of the COVID-19 outbreak and in support of the state's directives; and (c) the health care facility or health care professional is arranging for or providing health care services in good faith.

Importantly, immunity does not attach if the alleged damages were caused by an act or omission constituting willful or intentional criminal misconduct, gross negligence, reckless misconduct, or intentional infliction of harm by the health care facility or health care professional. The Act explicitly states that "actions or omissions resulting from a resource or staffing shortage" shall not be considered willful or intentional criminal misconduct, gross negligence, reckless misconduct, or intentional infliction of harm.

The Act also applies immunity from any liability, civil or criminal, to volunteer organizations if the alleged damages arise from the state's response and activities under the COVID-19 emergency declaration and in accordance with any applicable COVID-19 emergency rule.

The Act is deemed to extend protection on or after **March 7, 2020** and applies to any claim during the COVID-19 emergency declaration.

The term "**health care facility**" is defined in the Act to mean a hospital, nursing home, or other facility licensed or authorized to provide health care services for any individual under [New York State Law] or under a COVID-19 emergency rule.

The term "**health care professional**" is defined in the Act to mean an individual, whether acting as an agent, volunteer, contractor, employee, or otherwise who is: (a) licensed or otherwise authorized [under New York State Law]; (b) a nursing attendant or certified nurse aide, including an individual who is providing care as part of an approved nursing attendant or certified nurse aide training program; (c) licensed or certified to provide emergency medical services; (d) a home care services worker; (e) providing health care services within the scope of authority

permitted by a COVID-19 emergency rule; or (f) a health care facility administrator, executive, supervisor, board member, trustee, or other person responsible for directing, supervising, or managing a health care facility and its personnel or other individual in a comparable role.

New York Timeline

- February 6, 2020: Commissioner of Health outlines a process for requesting resources through the county and NYC Office of Emergency Management
- March 7, 2020: Governor issues Executive Order 202
  - » Declaring a Disaster Emergency in the State of New York
- March 12, 2020: Governor issues Executive Order 202.1
  - » Suspension of laws and regulations to allow for expansion of services and temporary facilities for health and human service providers
- March 15, 2020: New York Department of Health issues guidance regarding the contacts of a close or proximate contact of a confirmed or suspected case of COVID-19
- March 16, 2020: New York Department of Health issues guidance regarding protocols for personnel in healthcare and other direct care settings to return to work following COVID-19 exposure or infection
  - » Superseded by DOH's March 31 guidelines
- March 16, 2020: New York Department of Health issues guidelines regarding managing stress and anxiety during COVID-19
- March 18, 2020: Governor issues Executive Order 202. 5
  - » Continuing temporary suspension and modification of laws relating to the disaster emergency to allow for flexibility regarding intake of patients at nursing homes, home health agencies, long term home health care programs, AIDS home care programs, and licensed home care services
- March 18, 2020: New York Department of Health issues Dear Administrator Letter (DAL) to health care providers seeking emergency approval from DOH for additional capacity
- March 19, 2020: New York Department of Health issues DAL to supersede the March 18 DAL
- March 19, 2020: New York Department of Health issues COVID-19 Testing Protocol
- March 21, 2020: New York Department of Health issues guidance regarding pregnancy and COVID-19 resources for health care providers
- March 23, 2020: New York Department of Health issues Medicaid Update containing comprehensive guidance regarding use of telehealth including telephonic services during the COVID-19 state of emergency
- March 23, 2020: Governor Cuomo issues Executive Order No. 202.10*
  - » Directs all Office Based Surgery, General Hospitals, and Ambulatory Surgery centers to cancel all elective surgeries to maximize hospital bed capacity
  - » Increased staffing resources by expanding the scope of practice for designated practitioners
  - » **Provides that all physicians, physician assistants, specialist assistants, nurse practitioners, licensed registered professional nurses and licensed practical nurses shall be immune from civil liability for any injury or death alleged to have been sustained directly as a result of an act or omission by such medical professional in the course of providing medical services in support of the State's response to COVID-19 outbreak, unless it is established that such injury or death was caused by the gross negligence of such medical professional**

    - Amends NY Good Samaritan Law to provide broad civil immunity to health care professionals through April 22, 2020
    - Provision codified in S07506 (see above)
  - » Provides that any healthcare facility is authorized to allow students, in programs licensed in New York State to practice as a healthcare professional, to volunteer at the healthcare facility for educational credit as if the student had secured a placement under a different clinical affiliation agreement, without entering into any such clinical affiliation agreement
  - » Provides that healthcare providers are relieved of recordkeeping requirements to the extent necessary for health care providers to perform tasks as may be necessary to respond to the COVID-19 outbreak
  - » Allows graduates of foreign medical schools having at least one year of graduate medical education to provide patient care in hospitals
- March 25, 2020: New York Department of Health issues Update on Specimen Collection and Handling to Include Nasal Swab and Oropharyngeal Swab Specimen Alternative
- March 27, 2020: New York Department of Health issues Medicaid Update regarding Medicaid Coverage and Reimbursement Policy for Services Related to COVID-19
- March 27, 2020: Governor issues Executive Order 202.11
  - » Allows pharmacy technicians and pharmacists to practice at an alternative location, including their home, as long as there is adequate security to prevent any personal health information from being compromised
  - » Allows graduates of registered professional nurse and licensed practical nurse licensure qualifying education programs registered by the State Education Department to be employed to practice nursing under the supervision of a registered nurse and with endorsement from employing hospital or nursing home for 180 days immediately following graduation
  - » Allows midwives licensed and in current good standing in any state in the United States or in any province or territory of Canada to practice in New York State without civil or criminal penalty related to lack of licensure
- March 28, 2020: Governor issues Executive Order 202.12
  - » Mandates that any facility licensed by the state shall as a condition of licensure permit the attendance of one support person who does not have a fever at the time of labor/delivery to be present as a support person for a patient who is giving birth
- March 28, 2020: New York Department of Health Issues COVID-19 Release from Home Isolation Guidance
- March 30, 2020: New York State Medicaid Prescriber Education Program issues guidance regarding COVID-19 drugs
- March 31, 2020: New York Department of Health issues Updated Protocols for Personnel in Healthcare and Other Direct Settings to Return to Work following COVID-19 Exposure or Infection
- April 1, 2020: New York Department of Health issues Update on Specimen Collection and Handling to Allow Nasal Swab and Saliva Specimens as Acceptable Alternative Specimens
  - » Supersedes March 25 guidance from NYDOH
- April 2, 2020: New York Department of Health issues guidance regarding options when personal protective equipment is in short supply or not available
- April 2, 2020: New York Department of Health issues interim containment guidance regarding precautionary quarantine, mandatory quarantine, and mandatory isolation

- April 7, 2020: Governor Issues Executive Order 202.14
  - » Directs that any medical equipment, ventilators, respirators, bi-pap, anesthesia, or other necessary equipment or supplies as determined by the Commissioner of Health that is held in inventory by any entity of the state shall be reported to DOH
- April 8, 2020: New York Department of Health issues COVID-19 update for Local Health Department contact investigations
- April 8, 2020: New York Department of Health issues guidance regarding COVID-19 and the use of cloth face coverings
- April 9, 2020: New York Department of Health issues Updated Infection Disease Requisition Form for Collection of Demographic Information
- April 9, 2020: Governor issues Executive Order 202.15
  - » Modifies existing law to allow that a NY-licensed pharmacy may receive drugs and medical supplies or devices from an unlicensed pharmacy, wholesaler, or third-party logistics provider located in another state to alleviate a temporary shortage of a drug or device that could result in the denial of health care under certain conditions.
  - » Modifies existing law to allow individuals, who graduated from registered or accredited medical programs in New York State in 2020 to practice medicine in NY without the need to obtain a license and without civil or criminal penalty related to lack of licensure
- April 12, 2020: New York State Department of Health issues guidance for Medicaid Providers
- April 12, 2020: Governor issues Executive Order 202.16
  - » Modifies existing law to permit individuals to perform testing for COVID-19 or its antibodies, in specimens collected from individuals suspected of suffering from a COVID-19 infection; individuals performing testing must meet federal requirements for testing personnel appropriate to the assay or device authorized by the FDA or New York State Department of Health
- April 17, 2020: Governor issues Executive Order 202.19
  - » Directs the Department of Health to establish a single, statewide coordinated testing prioritization process that shall require all laboratories in the state (public and private) that conduct COVID-19 diagnostic testing to complete such COVID-19 diagnostic testing only in accordance with such process.
  - » Laboratories may not, without an exemption from DOH, enter into an agreement that would reserve testing capabilities for any private or public entity
    - Civil penalty not to exceed $10,000 or three times the value of such testing provided in violation of the Order
  - » The directive contained in Executive Order 202.18 (mandating notification on April 16th) requiring any skilled nursing facility, nursing home, or adult care facility licensed and regulated by the Commissioner of Health to notify a family member or next of kin if any resident tests positive for COVID-19, or suffers a COVID-19 related death, within 24 hours is hereby modified solely to provide a penalty for non-compliance of $2,000 per violation per day, as if it were a violation of section 12 of the public health law, and any subsequent violation shall be punishable as if it is a violation of section 12-b of the public health law.

NORTH CAROLINA

1. **February 2, 2020** Order of State Health Director requiring reporting by all physicians and labs to report suspected or confirmed coronavirus infections. (Eff. Feb. 3, 2020, Exp. May 3, 2020).
2. **March 12, 2020** Interim Guidance on Use of Personal Protective Equipment when treating patients with suspected or confirmed COVID-19
3. **March 13, 2020**: Respiratory Board issues Treatment Algorithm for COVID-19
4. **March 16, 2020:** Guidance on Lab Specimen Collection and Shipment for COVID-19
5. **March 19, 2020**: Speech Language Pathology Board issues Tele-practice Rule (Eff. March 27, 2020).
6. **March 20, 2020** Interim Guidance to Hospitals and Ambulatory Centers Cancelling Elective Procedures (eff March 23, 2020)
7. **March 20, 2020** Interim Guidance for Behavioral Health and Intellectual and Developmental Disability (BHIDD) Group Homes
8. **March 20, 2020** Interim Guidance for Outpatient and Crisis BHIDD System Providers
9. **March 20, 2020** Medical Board Rule relaxing licensure requirements
10. **March 23, 2020** Order of State Health Director requiring reporting by all physicians and labs to report suspected or confirmed coronavirus infections (Eff. March 23, 2020, Exp. June 21, 2020)
11. **March 26, 2020** Guidance on Telehealth Services under Three-way Psychiatric Inpatient Contracts during COVID-19
12. **March 27, 2020** Guidance to Adult Care Homes regarding Medical Provider Visits Due to COVID-19
13. **March 29, 2020** Final Guidance to all NC clinicians and lab staff (superseding March 23, 2020 guidance): Guidance on clinical assessment and management, testing for COVID-19, reporting requirements for COVID-19, treatment for COVID-19
14. **March 31, 2020:** Medical Board Order allowing emergency reassignment of PAs
15. **April 1, 2020** Interim Guidance for Home and Community-Based Care Providers
16. **April 1, 2020**: Pharmacy Board regulates hydroxychloroquine, chloroquine, lopinavir-ritonavir, ribavirin, oseltamivir, darunavir, and azithromycin
17. **April 3, 2020** Interim Guidance for Dental Providers
18. **April 6, 2020** Medical Board Drug Preservation Rule for physicians and PAs
19. **April 6, 2020** First Responder's Guidance on COVID-19 Testing
20. **April 8, 2020**: E.O. No. 130: (1) Delegation of authority to DHHS to modify or waive facility rules; (2) delegation of authority to relax of licensed practice requirements, (3) MM/DD/SAS staffing, facilities, population monitoring and ratios, and Telehealth, (4) PACE in-home care and staffing background checks; FAQ: Waivers are on an individual basis and are considered
21. **April 9, 2020** NCDHHS April 9, 2020 Best Practices in Congregate Living Settings (Assisted Living / Adult Care Homes)
22. **April 10, 2020** Joint Orders of Medical and Nursing Boards Allowing Broader Scope of Practice for Nurse Practitioners.
23. **April 10, 2020** NCDHHS Guidance for Long Term Care Settings on What to Expect & Handle COVID-19 Outbreaks
24. **April 10, 2020** E.O. No. 131: Mandating mitigation measures for SNFs & recommending same for adult care homes, family care homes, mental health group homes, intermediate care facilities

25. **April 16, 2020**: Speech Language Pathology relaxes supervision of assistants
26. **April 20, 2020** NCDHHS Final Guidance to all NC clinicians and lab staff (superseding March 29, 2020 guidance). Guidance on lab testing, updated criteria for submission of specimens, and reference to CDC guidance
27. **April 21, 2020** Medical Board Rule restricts hydroxychloroquine, chloroquine, lopinavir-ritonavir, ribavirin, oseltamivir, darunavir, and azithromycin RXs by Nurse Practitioners

E.O. 130: Effective 8 April 2020, Section 3 provides immunity from liability under two circumstances:

(1) Out-of state providers providing tele-health or in-person care through EMAC , if allowed and in compliance by government state licensing board, or any act or omission (a) as a result of a good faith attempt to render aid or (b) as a result of the use of any equipment or supplies used on connection with an attempt to render aid. E.O. 130 § 3.B.5; and

(2) Any person licensed in North Carolina or authorized by E.O. 130† to perform professional skills* in the field of health care who provide emergency services are entitled to governmental immunity (which is a defense against being sued).

(3) Cases of willful misconduct, gross negligence, and bad faith are excluded from liability.

† Allowing the licensing boards of Medicine, Nursing, Midwifery, Social Worker, Respiratory Care Pharmacy, Speech language pathology/therapy, Psychology, Clinical Mental Health Counseling, Substance use disorder professionals, Occupational Therapy, Physical Therapy, Recreational Therapy, Interpreters and transliterators, Nursing Home Administrator, Assisted Living Administrator, Perfusionist to permit in-state care to be provided by (1) persons licensed in another American jurisdiction, (2) retired or inactive North Carolina licensees, (3) skilled but unlicensed persons, and (4) students at an appropriately advanced stage of professional study. Note that the particular boards would have to enact rules allowing for the practice of such persons and would include tele-health provided by out-of-state providers.

* "professional skills" are acts or services "arising out of a vocation, calling occupation, or employment involving specialized knowledge, labor, or skill, and the labor [or] skill involved is predominantly mental or intellectual, rather than physical or manual." Sturgill v. Ashe Mem'l Hosp., Inc., 652 S.E.2d 302, 186 N.C. App. 624 (N.C. App. 2007)

This E.O. expires after 60 days, unless rescinded or replaced by a superseding order. If the Declaration of the State of Emergency is rescinded, this E.O. is automatically rescinded.

Department of Health Recommendations (Recommended Standard of Care)
https://www.ncdhhs.gov/divisions/public-health/covid19/covid-19-guidance#all-guidance-for-health-care-providers-and-local-health-departments

The DOH has a number of hyperlinks to guidance documents and recommendations. The first section is information specifically provided by the CDC through their own website. This includes FAQs, Infection Control Guidelines, etc. Other sections are broken down as follows:

Dialysis Facilities: links to both CMS (dated March 10) and CDC guidelines are provided. No state specific recommendations are available.

Health Care Settings (Long term care and nursing homes):

- CDC guidance from their website
- Checklist created by U.S. HHS released March 12.
- A state specific health personal and visitor monitoring log. This includes the name, date, time in/out, PPE worn, and an "yes" or "no" option for any breach. Instruction states that this log is to be used for anyone accessing the room of a patient with COVID-19. It was released January 30.
  - » https://epi.dph.ncdhhs.gov/cd/coronavirus/_Healthcare%20Personnel%20and%20Visitor%20Monitoring%20Log.pdf?ver=1.1
- A self monitoring log for infected individuals
  - » https://epi.dph.ncdhhs.gov/cd/lhds/manuals/cd/coronavirus/2_PUM_Symptom%20Self-monitoring%20Log.pdf?ver=1.2
  - » Link to CDC "PPE Burn Rate Calculator"
  - » Link to CDC "Considerations for Alternate Care Sites"

Home Care Settings

- April 1 Memo outlining best practices for in home care providers. Some suggestions were screening patients before visiting their homes, telling staff to stay home when sick, social distancing, proper hygiene (handwashing and hand sanitizer).
  - » https://files.nc.gov/ncdhhs/documents/files/covid-19/NC-Interim-Guidance-for-BHIDD-In-Home-Service-Providers.pdf
- Also included under this section are two additional memos instructing best practices for those who might be sick and those who live with someone who might be sick

Providers (Generally)

- Multiple links to CDC best practices available on their website
- Link to E.O. 130 (April 8) (see above)
- Memo from the DOH to all health care providers dated March 29 (replacing an earlier March 23 version). This memo covers a variety of topics such as instructing providers to tell patients with mild symptoms to self isolate, encouraging telehealth in lieu of personal appointments, which patients should be sent for testing, reporting, preventing further infection and treatment.
  - » https://files.nc.gov/ncdhhs/documents/files/covid-19/COVID-19-Provider-Guidance-Final.pdf
- March 27 Memo regarding newborn screening
  - » https://slph.ncpublichealth.com/doc/NC-DHHS-NewbornScreening-COVID-033020.pdf
- A March 23 Order from the head of the DOH requiring providers to report COVID cases.
- A March 20 Memo for Interim Guidance on Outpatient and IDD providers. This memo offered basic advice on limiting contact, cleaning disinfecting, training employees, and screening patients.
  - » https://files.nc.gov/ncdhhs/documents/files/covid-19/NC-Interim-Guidance-for-BHIDD-Outpatient-and-Crisis-System-Providers-3-20-20-Final.pdf
- A February 2 Order from the director of the DOH requiring reporting on COVID cases.

NORTH DAKOTA

https://www.health.nd.gov/diseases-conditions/coronavirus

https://www.governor.nd.gov/executive-orders

- March 13, 2020
  - » E.O. 2020-03 declares state of emergency
- March 17, 2020
  - » The North Dakota Supreme Court issued an order extending certain deadlines, but stated that the order does not stay or extend any statute of limitations or repose for commencing an action in civil cases (https://www.ndcourts.gov/news/north-dakota/north-dakota-supreme-court/notices/20200084/Order-of-Adoption-2)
- March 19, 2020
  - » E.O. 2020-05 suspends licensing requirements for hospitals and health care facilities
- **E.O. 2020-05.1** March 20, 2020
  - » Telehealth
    - Suspends certain statutory and regulatory requirements
    - Insurance carriers shall cover virtual visits for established patients in accordance with the guidance issued by CMS on March 17, 2020
    - Insurance carriers shall not subject telehealth coverage to deductible, coinsurance, copayment or other cost sharing provisions
    - No insurance carriers shall impose any specific requirements on the technologies used to deliver telehealth
  - » The licensing requirements for hospitals and other health care facilities are suspended subject to temporary emergency requirements
  - » The licensure requirements for health care or behavioral health professionals are suspended for those who are licensed and in good standing in other states, as needed to provide health care and behavioral health services, to include telehealth care, for citizens impacted by COVID-19
- March 25, 2020
  - » Medicaid allows telehealth coverage (http://www.nd.gov/dhs/info/covid-19/docs/policy-medicaid-temporary-telehealth.pdf)
- **E.O. 2020-12** March 25, 2020
  - » Effective March 12, 2020, first responders and health care workers who are exposed to COVID-19 in the course of employment may file a claim for workers' compensation coverage and may be eligible for up to fourteen days of wage replacement and medical coverage if quarantined
  - » The worker must be subject to quarantine resulting from a work-related exposure, pursuant to an order of a treating health care provider, or public health officer; the worker has experienced lost wages during the quarantine and is not eligible for lost wage benefits from any other source
  - » First responders and front line health care workers who test positive for COVID-19 and can demonstrate that the infection resulted from a work-related exposure, will be eligible for wage replacement and medical benefits

- April 3, 2020
  - E.O. 2020-20 temporarily suspends certain licensure requirements under the health care licensing statutes to allow competent professionals with inactive or lapsed licenses to return to the workforce
- April 6, 2020
  - E.O. 2020-21 requires all individuals who tested positive for COVID-19 and their household members to self-quarantine in their place of residence for 14 days
  - E.O. 2020-22 suspends visitation in long-term care facilities, including skilled nursing facilities and basic care facilities except for end-of-life or compassionate care for residents with terminal conditions. All non-essential personnel and volunteers are restricted from long-term care facilities until further notice.
- April 8, 2020
  - E.O. 2020-26 allows for the transfer of COVID-19 medical supplied to the North Dakota Department of Health
- April 17, 2020
  - E.O. 2020-29 waives certain rules regarding Medicaid to enhance services during COVID-19 crisis
- As of April 20, 2020
  - No provisions extending civil immunity to hospitals/care workers
  - No provisions tolling the SOL
  - No stay-at-home order

OHIO

https://coronavirus.ohio.gov/wps/portal/gov/covid-19/resources/public-health-orders/public-health-orders

- March 9, 2020
  - » E.O. 2020-01D declared a state of emergency
- March 11, 2020
  - » Department of Health directed all nursing homes and similar facilities to restrict access to absolutely necessary personnel only. Residents are only able to have one visitor a day. Personnel must be screened for COVID-19 each time they enter the home.
- March 13, 2020
  - » Department of Health amended order to limit access to nursing homes and similar facilities
    - "absolutely necessary" personnel include: home staff, emergency healthcare providers, contractors conducting critical on-site maintenance, and governmental representatives
    - No visitors of residents shall be admitted to any home except for end-of-life situations
- March 14, 2020
  - » Department of Health directed all individuals to be screened for COVID-19 prior to admission to state operated psychiatric hospitals or Department of Youth Services facilities
- March 17, 2020 Director's order for the management of nonessential surgeries
  - » Effective March 18, 2020 until the state of emergency no longer exists, all nonessential surgeries and procedures that utilize PPE should not be conducted. Facilities must eliminate nonessential individuals from surgery and procedure rooms and patient care areas. Every hospital and outpatient surgery or procedure provider shall establish an internal governance structure to ensure this order is followed.
- March 19, 2020
  - » E.O. 2020-05D adopts the Emergency Adoption of Rule 5160-1-21 of the Ohio Administrative Code by the Ohio Department of Medicaid (https://www.cchpca.org/sites/default/files/2020-03/OHIO%20Telehealth%20appendix_emergency%20rule%205160-1-21.pdf)
    - "telehealth" is
      - o The direct delivery of health care services to a patient via synchronous, interactive, real-time electronic communication comprising both audio and video elements; or
      - o Activities that are asynchronous and do not have both audio and video elements such as telephone calls, images transmitted via facsimile machine, and electronic mail
    - Eligible providers: physician, psychologist, physician assistance, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, social worker, therapist, clinical counselor, audiologist, physical therapist, speech-language pathologist, dietitians
    - All the providers may bill Medicaid for these telehealth services during the emergency
    - Both new and established patients may be provided telehealth services
  - » E.O. 2020-05D adopts the Emergency Amendment of Rule 5122-29-31 of the Ohio Administrative Code by the Ohio Department of Mental Health and Addiction Services
- March 21, 2020
  - » Department of Health directed the closure of facilities providing older adult day care services and senior centers effective March 23, 2020

- March 22, 2020
  - » Stay at home order issued effective March 23, 2020 to April 6, 2020
- March 27, 2020
  - » Ohio Supreme Court issued an order tolling statutes of limitations in conformance with House Bill 197. It immediately tolled, retroactive to March 9, all SOL, time limitations and deadlines until the expiration of E.O. 2020-01D or July 30, 2020, whichever is sooner
- April 1, 2020
  - » Department of Health directed that all hospitals and physicians that are not currently conducting testing shall contract with a hospital system with a laboratory that is performing COVID-19 testing to maximize the testing volume.
- April 2, 2020
  - » Department of Health extends stay at home order until the end of April

OKLAHOMA

E.O. 2020-06 (March 12) Governor Stitt instructed all state agencies to prepare for the COVID pandemic.

E.O. 2020-07 (March 15) a state of emergency is declared.

E.O. 2020—8 (March 17) Governor Stitt instructs all residents to obey the President's COVID-19 guidelines. The Order goes on to list some generic advice and directs individuals to follow CDC and federal guidelines.

E.O. 2020-07 Amended (March 17) among other things, allows any medical professional who holds a license, certificate, or other permit issued by any state that is a party to the Emergency Management Compact evidencing the meeting of qualifications for the practice of certain medical services, as more particularly described below, shall be deemed licensed to practice in Oklahoma so long as this Order shall be in effect, subject to certain conditions.

E.O. 2020-07 Third Amended (March 21) Among other things, states that advanced practice registered nurses, registered nurses, licensed practical nurses and advanced-unlicensed assistants who have lapsed or inactive licenses or certifications may have their single-state license or certification reinstated if they submit a reinstatement application and fee prescribed by the Board and meet the qualifications for licensure or certification established by the Board, provided such license shall only be valid as long as this Order is in effect.

E.O. 2020-07 Fourth Amended (March 24) prohibits visitors to nursing homes, long term care facilities, and retirement homes.

E.O. 2020-07 Sixth Amended (March 29) Among other things, states that any medical professional (includes MDs, DOs, and Nurses) who holds a license, certificate, or other permit issued by any state that is a party to the Emergency Management Compact evidencing the meeting of qualifications for the practice of certain medical services, as more particularly described below, shall be deemed licensed to practice in Oklahoma so long as this Order shall be in effect, subject to certain conditions. Expands the use of telemedicine, and eases the ability of nurses with lapsed or inactive licenses to be reinstated.

Department of Health Recommendations (Recommended Standard of Care)
https://coronavirus.health.ok.gov/resources-recommendations

The State DOH provides one fact sheet that is specific to **healthcare providers**. The fact sheet provides little guidance and recommends actions such as minimizing chance of exposure and proper reporting of cases.
https://coronavirus.health.ok.gov/sites/g/files/gmc786/f/20081oc_-_coronavirus_guidance_for_health_care_providers-final.pdf

There is one other resource available specifically **for assisted living, residential care, and adult care centers**. The fact sheet instructs providers to follow CDC guidelines has some FAQ sections.
https://coronavirus.health.ok.gov/sites/g/files/gmc786/f/031920_assisted_living-residential_care-eng.pdf

OREGON

General Information:

- List of administrative rules temporarily suspended due to COVID-19
  - Many of these rules regard licensing procedures. For full list, see link below.
  - https://www.oregon.gov/gov/Pages/OAR-temporary-suspensions.aspx
- Oregon Health Authority Guidance and Rules:
  - https://govstatus.egov.com/OR-OHA-COVID-19
- Guidance for healthcare partners:
  - https://www.oregon.gov/oha/PH/DISEASESCONDITIONS/DISEASESAZ/Pages/COVID-19.aspx
- Guidance for CCOs and OHP Providers:
  - https://www.oregon.gov/OHA/HSD/OHP/Pages/COVID-19.aspx
- Public Health Division rules:
  - List of proposed permanent rulemakings and temporary rulemakings.
    - https://www.oregon.gov/oha/PH/RULESREGULATIONS/Pages/index.aspx
- Oregon Health Plan rules:
  - List of all Oregon Health Plan Temporary Rules
    - https://www.oregon.gov/oha/HSD/OHP/Pages/Temp-Rules.aspx

Timeline:

- March 8 (Executive Order 20-03): Declaration of Emergency issued.
  - https://www.oregon.gov/gov/Documents/executive_orders/eo_20-03.pdf
- March 19 (Executive Order 20-10): Prohibition on elective and non-urgent surgeries; prohibition on nonessential visitation in hospitals and surgical centers.
  - https://www.oregon.gov/gov/Documents/executive_orders/eo_20-10.pdf
- March 21: Guidance for Opioid Treatment Programs
  - List of FAQs from the Oregon State Opioid Treatment Authority.
    - https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/le2281.pdf
- March 22: Long Term Care Facility COVID-19 Response Toolkit
  - 22-page document that provides resources for long term care facilities to utilize in their COVID-19 response planning.
    - https://www.oregon.gov/oha/PH/DISEASESCONDITIONS/DISEASESAZ/Emerging%20Respitory%20Infections/LTCF-COVID-19-Response-Toolkit.pdf
- March 27: Provisional Guidance: Clinical Care and Healthcare Infection Prevention and Control for COVID-19
  - 20 page document that: provides information on clinical symptoms, risk factors, management, and treatment of COVID-19; provides guidance on diagnostic testing for COVID-19; hopes to prevent healthcare-associated spread of COVID-19; supports the safe management of patients with suspect or known COVID-19 in healthcare settings; encourages the optimization the use of the personal protective equipment (PPE) and healthcare resources needed to protect healthcare personnel (HCP).
    - https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/le2288J.pdf

- March 31: Guidance for Treatment Facilities
  - » Restrict non-essential visitation, limit essential visitation, screen all visitors, and restrict community outings.
    - – https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/le2276.pdf
- March 31: Guidance for Psychiatric Inpatient Care Programs
  - » Restrict non-essential visitation, limit essential visitation, screen all visitors, and restrict community outings.
    - – https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/le2275.pdf
- April 4: Oregon Guidance for Healthcare Personnel on Use of Personal Protective Equipment in Resource-Constrained Settings
  - » This guidance is arranged in four tiers; each successive tier outlines approaches under increasingly resource-constrained situations.
    - – https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/le2288t.pdf
- April 11: Guidance for Entry into Acute Health Care Facilities
  - » Healthcare facilities shall adopt and enforce policies and procedures that limit entry into facilities to essential individuals and require the screening of those essential individuals before entry. It also outlines visitation requirements for individuals other than health care workers and facility personnel.
    - – https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/le2282.pdf
- April 11: Guidance for health systems regarding COVID-19 testing
  - » Outlines prioritized testing for certain groups. Criteria for testing are included.
  - » Asymptomatic persons and those with symptoms that do not necessitate medical evaluation are not recommended for testing at this time.
    - – https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/le2267.pdf

Civil Immunity:

- There has been no liability waiver enacted specifically for COVID-19, but heath care organizations have petitioned the governor to enact such immunity. https://www.bizjournals.com/portland/news/2020/04/06/oregon-health-care-organizations-ask-brown-for.html
- ORS 676.340-676.345: Limits liability for volunteer healthcare providers
- ORS 80.800: Liability protection for healthcare professionals providing volunteer emergency medical assistance.

Statute of Limitations:

- No specific or statewide court orders regarding statute of limitations.
- https://www.courts.oregon.gov/courts/Pages/coronavirus.aspx

PENNSYLVANIA

https://www.health.pa.gov/topics/disease/coronavirus/Pages/Health%20Care.aspx

According to reports, Governor Wolf is "exploring such immunity for health care professionals," though there is no indication if he plans to take any specific action on this topic.

Health Care Facilities LINK
Hospitals LINK
Public Health Professionals LINK
Nursing Homes LINK
Health Care Professionals LINK

Timeline

February 4, 2020 – Recommended isolation and quarantine of persons with epidemiologic risk factors. *See* LINK

February 9, 2020 – Guidance issued for risk assessment and public health management of healthcare personnel with potential exposure in a healthcare setting to patients with COVID-19. *See* LINK

February 28, 2020 – Interim guidance for healthcare professionals. Healthcare providers should obtain a detailed travel history for patients being evaluated for fever and acute respiratory illness. *See* LINK

March 6, 2020 – Guidance issued to medical professionals re reporting of deaths attributed to COVID-19. *See* LINK

March 9, 2020 – Additional guidance issued in the event of sustained community transmission.

March 14, 2020 – Interim COVID-19 specimen collection and testing guidance. *See* LINK

March 19, 2020 – Interim guidance on discontinuing home isolation/quarantine and returning to work criteria for healthcare providers with COVID-19. *See* LINK

March 24, 2020 – Recommend a combination of eye protection, gloves, gown, respirator or facemask. COVID-19 patients placed in a single-person room with door closed; reserve isolation rooms for aerosol generating procedures. *See* LINK

April 3, 2020 – Updated guidance for specimen collection/shortage of swabs. *See* LINK

April 3, 2020 – Critical that providers implement universal masking of all persons entering facility. *See* LINK

April 6, 2020 – Guidance as to notification of COVID-19 test results to patients. *See* LINK

April 10, 2020 – Interim guidance for serological testing and COVID-19 diagnostics. *See* LINK

April 14, 2020 – Providers reminded that patient date of birth, address, telephone number, race, and ethnicity fields should be filled out in all laboratory submission forms. *See* LINK

April 12, 2020 – Guidance re cohorting of residents in nursing facilities. *See* LINK

April 16, 2020 – Implement source control and actively screen everyone before entering healthcare facility. *See* LINK

Tolling of Statute of Limitations

As of April 1, Pennsylvania courts have extended their previous orders through April 30. *See* LINK

RHODE ISLAND

On April 10, 2020, Rhode Island Governor Raimondo issued Executive Order 20-21 providing immunity for responding health care facilities, health care workers, and others. The Order took effect on April 10 and remains in full force and effect until **May 8, 2020** unless renewed, modified, or terminated by subsequent Executive Order.

The Order extends the protection afforded to **disaster response workers** entitled to immunity under R.I. Gen. Laws § 30-15-15(a) and to provide services beyond or without a license as permitted by R.I. Gen. Laws § 30-15-15(b). The term "disaster response workers" now includes "all persons and organizations subject to this Order, including health care workers providing community-based healthcare, services at surge hospitals, and services in existing hospitals, nursing facilities, and alternative nursing care sites." Importantly the Order explicitly does not provide immunity for negligence that occurs in the course of providing patient care to patients without COVID-19 whose care has not been altered by the existence of the disaster emergency.

Rhode Island Timeline

- January 23, 2020: Rhode Island Department of Health issues guidance for Rhode Island clinical providers on Novel Coronavirus, Wuhan, China
- February 1, 2020: RIDOH distributed CDC Update and Interim Guidance on Outbreak of 2019 Novel Coronavirus
- February 10, 2020: RIDOH distributed CDC Interim U.S. Guidance for Risk Assessment and Public Health Management of Healthcare Personnel with Potential Exposure in a Healthcare Setting to Patients with 2019 Novel Coronavirus
- February 14, 2020: RIDOH issues Novel Coronavirus Update to Providers
- February 21, 2020: RIDOH issues Novel Coronavirus Update to Providers
- February 28, 2020: RIDOH distributes CDC Update and Interim Guidance on Outbreak of COVID-19
- March 1, 2020: Rhode Island established an Incident Command System
  - » Organize state agency preparedness and response activities
- March 1, 2020: RIDOH announces Second Presumptive Positive COVID-19 Case
- March 9, 2020: Governor issues Executive Order 20-02
  - » Declaration of a Disaster Emergency
- March 10, 2020: RIDOH distributes CDC Updated Guidance on Evaluating and Testing Persons for COVID-19
- March 12, 2020: RIDOH distributes notes from COVID-1 9 Provider Update Call
- March 12, 2020: RIDOH issues COVID-19 Updates for Healthcare Providers
- March 13, 2020: Governor issues Executive Order 20-03
  - » Supplemental Emergency Declaration
- March 17, 2020: RIDOH issues COVID-19 Update for Dental Health Care Personnel
- March 18, 2020: Governor issues Executive Order 20-06
  - » Expanding Access to Telemedicine Services
  - » Extended on April 17, 2020 by Executive Order 20-28
- March 18, 2020: RIDOH announced that out-of-state health care providers can obtain a temporary 90-day license to practice in the state

- March 20, 2020: RIDOH offers update on National PPE Shortage and State Distribution Strategy
  - » RIDOH distributes CDC guidance on PPE Optimization
- March 22, 2020: RIDOH issues guidance on setting up a respiratory care clinic for COVID-19 assessment in Rhode Island
- March 24, 2020: RIDOH issues guidance on physician duty to isolate at home when sick
- March 28, 2020: RIDOH distributes CDC guidance regarding severe illness associated with using non-pharmaceutical chloroquine phosphate to prevent and treat COVID-19
- March 29, 2020: RIDOH issues guidance regarding respiratory care for COVID-19
- March 29, 2020: Governor announced that the State was suspending all Medicaid terminations at quarterly income verifications
- April 2, 2020: Governor expands testing criteria to include all symptomatic Rhode Islanders
- April 6, 2020: Governor issues Executive Order 20-16
  - » Authorizing Waiver and Medicaid State Plan Amendments and Adjustments to Essential Provider Rates
- April 7, 2020: Governor issues Executive Order 20-17
  - » Testing, Critical Supplies, and Hospital Capacity Reporting
  - » Ensures hospitals provide data to the state regarding supplies, patients being treated for COVID-19, and testing
- April 8, 2020: Governor issues Executive Order 20-18
  - » Extension of Declaration of Disaster Emergency
- April 10, 2020: Governor issues Executive Order 20-21
  - » Increasing Hospital and Nursing Facility Capacity
  - » Extending Statutory Immunity
- April 14, 2020: Governor issues Executive Order 20-24
  - » Requiring Cloth Face Masks at Work
- April 15, 2020: Governor issues Executive Order 20-26
  - » Support for Young Adults Aging Out of State Care

SOUTH CAROLINA

1. **March 13, 2020** Executive Order 2020-08 DHEC directed to restrict visitation to nursing homes and assisted living facilities
2. **March 13, 2020** Guidance on Visitor Restrictions from Board of Long-term Health Care Administrators
3. **March 14, 2020** Nursing Board Order re SC licensing requirements for out-of-state APRNs, LPNs, and RNs
4. **March 16, 2020** Pharmacy Board Order Allowing Remote Order Entry
5. **March 22, 2020** Medical Board Order re NC and GA PA and NP practicing in SC
6. **March 22, 2020** Medical Board Order re Hospice Prescribing via Telehealth
7. **March 22, 2020** Medical Board Order on Medication-Assisted Treatment
8. **March 22, 2020** Order of Medical Board Allowing Prescription of Schedule II, III Meds without Prior Permission in Telehealth
9. **March 23, 2020** Pharmacy Board Order Allowing Medication Pickup Kiosks
10. **March 23, 2020** Pharmacy Board Order Creating Safe Harbor for PPE Usage
11. **March 25, 2020** Joint Order of Boards of Medicine and Pharmacy on Prescribing and Dispensing Hydroxychloroquine, Chloroquine, and Azithromycin
12. **[Undated]** SCDHEC Rule on Controlled Substance Prescriptions
13. **March 27, 2020** Nursing Board Order re APRNs Restrictions
14. **March 28, 2020** Executive Order 2020-15 Continued State of Emergency for 15 Days
15. **April 10, 2020** Joint Order of Boards of Medicine and Nursing Suspending Requirements for PAs and Advanced Practice Nurses
16. **April 12, 2020** Executive Order 2020-23 Continued State of Emergency for 15 Days

South Carolina has announced states of emergencies. That state of emergency was extended on April 12 through E.O. 2020-23

South Carolina has not explicitly extended immunity promulgated executive orders. However, on 13 March 2020, Executive Order 2020-08 declared a state of emergency for 15 days and authorized SCDHEC to exercise emergency powers under S.C. Code Ann. § 44-4-500. The state of emergency was extended for another fifteen days by E.O. 2020-15 on 28 March 2020. The state of emergency was extended a third time for another fifteen days by E.O. 2020-23 on 12 April 2020 for another fifteen days.

DHEC's emergency powers allow it to coordinate with the Department of Labor, Licensing and Regulation to (1) require S.C. licensed health care providers to assist in performance of vaccinations, treatment, examination, or testing of any individual as a condition of licensure, authorization, or the ability to continue to function as a health care provider in S.C., (2) accept volunteer services of in-state and out-of-state health care providers as emergency support function volunteers, prescribing duties as may be reasonable and necessary for emergency responses, and (3) authorizing medical examiners and coroners to appoint and prescribe duties of such emergency assistant medical examiners or coroners as may be required for duties of the office. These "appointments" are limited in duration for the extent of the emergency. If any of these regulations go into effect, a health care provider is given immunity from civil damages as a result of medical care or treatment related to the health care provider's

appointment and prescribed duties, unless (1) the health care receives payment for services, except those provided by § 8-25-40, or (2) the health care provider acted with reckless disregard for the consequences of the rendering or omission of care or treatment and it affects the life or health of the patient. S.C. Code Ann. § 44-4-570.

Department of Health Recommendations (Recommended Standard of Care)
https://www.scdhec.gov/infectious-diseases/viruses/coronavirus-disease-2019-covid-19

The DOH for South Carolina breaks down guidance documents for healthcare providers in the following subcategories. It should be noted that there is some overlap between sections.

Healthcare facilities:

- April 15 Memo addressed to Day Care Facilities for Adults. It appears these facilities remain open and the memo give guidance on proper protocol for screening, logging visitors to these facilities, and educating visitors on proper etiquette.
  - » https://www.scdhec.gov/sites/default/files/media/document/COVID-19-Day-Care-Facilities-Adults-Guidance-04.15.20.pdf
- An April 15 Memo addressing FAQs for nursing homes and LTC facilities. The current version is revised and it is unclear when the original was posted.
  - » https://www.scdhec.gov/sites/default/files/media/document/COVID-19-Updated-FAQs-for-Nursing-Homes-Assisted-Living-Facilities-4.16.2020.pdf
- Multiple links to CDC guidance documents/website pages
- An April 10 letter to Ambulatory Surgical Centers confirming that they may apply to act as temporary hospitals during the crisis per CMS recommendations. Instructions to do they same were provided
  - » https://www.scdhec.gov/sites/default/files/media/document/DHEC-Guidance-for-Ambulatory-Surgical-Facilities-Enrolling-as-Hospitals.pdf
- Multiple links to MCS guidance documents

Hospitals

- Standardized form to be used to permit more patients than normally allowed
- Multiple links to CDC guidance documents
- Public Health Order issued April 9. The order reiterated previous proclamations and added reporting requirements.
  - » https://www.scdhec.gov/sites/default/files/media/document/Public-Health-Order_04092020.pdf
- A FAQ factsheet that elaborated of E.O. 2020-11. More specifically, section 4 of the order relaxed restrictions on number of residents in rooms and total bed count/arrangement.
  - » https://www.scdhec.gov/sites/default/files/media/document/EO-2020-11-4-FAQ-03-24-2020.pdf

Nursing Homes:

- An updated CMS guidance document specific to nursing homes dated April 2
  - » https://www.scdhec.gov/sites/default/files/media/document/Updated%20CMS%20Guidance%20for%20Long-Term%20Care%20Facilities.pdf

- A document instructing nursing homes to coordinate and institute both CDC and CMS best practices/ guidance (no date available).
  - » https://www.scdhec.gov/sites/default/files/media/document/COVID-19-NURSING-HOME-IPC-ASSESSMENT-ACTIVITY_4.10.2020.pdf
- A link to the CDC guidance specifically for nursing homes
- A link to a state specific, hour long webinar for nursing home COVID preparedness
  - » https://www.scdhec.gov/infectious-diseases/viruses/coronavirus-disease-2019-covid-19/nursing-home-guidance-webinar-covid-19
- FAQ from the state DOH specifically for nursing homes concerning a number of topics. These topics include who should be considered a visitor, how to acquire testing kits, and who to contact if there are cases within the facility.
  - » https://www.scdhec.gov/sites/default/files/media/document/COVID-19-Updated-FAQs-for-Nursing-Homes-Assisted-Living-Facilities-4.16.2020.pdf
- Memo addressing visitation restriction more in-depth and addressed to facility administrators.
  - » https://www.scdhec.gov/sites/default/files/media/document/DHEC_Guidance_on_Visitation_Restrictions.pdf

It should be noted that many of these guidance documents are not dated.

SOUTH DAKOTA

https://doh.sd.gov/news/Coronavirus.aspx

https://sdsos.gov/general-information/executive-actions/executive-orders/search/Default.aspx

- March 13, 2020
  - » E.O. 2020-04 declares a state of emergency expiring April 12, 2020
- March 23, 2020
  - » E.O. 2020-07 temporarily suspends regulatory provisions which limit or restrict the provisions of telehealth; grants full recognition to the licenses held by a professional by any compact member state
    - Medicaid covers telehealth coverage (https://dss.sd.gov/docs/COVID19/4.2.20_Medicaid_flexibilities.pdf)
  - » E.O. 2020-08 requests that everyone review and practice the CDC guidelines
- April 2, 2020
  - » E.O. 2020-11 declares a statewide disaster
- April 3, 2020
  - » South Dakota State Medical Association called on the Governor to issue a stay-at-home order, but as of April 20, 2020 no order exists
- April 9, 2020
  - » E.O. 2020-15 declares a continued state of emergency until May 31, 2020
- April 15, 2020
  - » E.O. 2020-16 removes barrier to the use of telehealth and suspends other licensure regulations for health care professionals
- As of April 20, 2020
  - » Court orders are silent on whether there would be a tolling of the statute of limitations (https://ujs.sd.gov/uploads/news/COVID19UJSProcedures.pdf)
  - » No order extending workers compensation to first responders (https://dlr.sd.gov/ workers_compensation/covid_19_workers_comp_coverage.aspx)
  - » No provisions extending civil immunity to hospitals/care workers
  - » No specific regulations for nursing homes/hospitals, just link to CDC

TENNESSEE

There are no Orders or pending Acts in Tennessee to establish broad civil liability for health care providers during the COVID-19 pandemic. However, Tennessee is one of seventeen states that has enacted the **Uniform Emergency Volunteer Health Practitioners Act** which grants civil immunity to out-of-state licensed health professionals for gratuitous care provided in a declared emergency.

Tennessee Timeline

- February 4, 2020: Tennessee Department of Health issues guidance regarding active monitoring
- March 12, 2020: Governor issues Executive Order No. 14
  - » Governor declares State of Emergency
  - » Permits health care professionals licensed in other states to provide health care services in TN related to COVID-19
  - » Allows health care professionals to provide localize treatment to patients in temporary residences
  - » Allows construction of temporary health care structures in response to COVID-19
  - » Authorizes TennCare policy changes to ensure that covered individuals receive medically necessary services without disruption
- March 13, 2020: Tennessee Department of Health launches weekly COVID-19 Webinars for Clinicians
- March 16, 2020: Tennessee Department of Health issues Personal Protective Equipment Conservation Guidance
- March 19, 2020: Governor issues Executive Order No. 15
  - » Relaxes licensing requirements for nurse practitioners, physicians' assistants, pharmacy technicians, laboratory technologists
  - » Allows hospitals to temporarily increase number of licensed hospital beds
  - » Provides for COVID-19 testing at alternate testing sites
  - » Health insurance carriers urged to provide coverage for delivery of clinically appropriate, medically necessary covered services via telemedicine to all providers
- March 19, 2020: Tennessee Department of Health issues guidance regarding releasing cases and contacts from isolation and quarantine
- March 23, 2020: Governor issues Executive Order No. 18
  - » An Order to Reduce the Spread of COVID-19 by Limiting Non-Emergency Healthcare Procedures
- March 23, 2020: Tennessee Department of Health issues guidance for specimen collection supplies
- March 24, 2020: Tennessee Department of Health issues guidance regarding extended use and re-use of N95s
- March 24, 2020: Tennessee Department of Health issues guidance regarding extended use and re-use of facemasks
- March 25, 2020: Tennessee Department of Health issues guidance regarding extended use and re-use of eye protection
- March 26, 2020: Governor issues Executive Order No. 20
  - » Further relaxes provider licensing requirements
- April 3, 2020: Governor issues Executive Order No. 24
  - » Relaxes licensing requirements for behavioral health practitioners

- April 6, 2020: Tennessee Department of Health issues NEDSS Base System user guidance for COVID-19 investigations
- April 8, 2020: Governor issues Executive Order No. 25
  - An Order to Reduce the Spread of COVID-19 by Limiting Non-Emergency Healthcare Procedures
  - Amends and Supersedes Executive Order No. 18
- April 12, 2020: Tennessee Department of Health issues decedent guidance
- April 15, 2020: Tennessee Department of Health issues FAQs regarding COVID-19 Clusters
- April 16, 2020: Tennessee Department of Health issues guidance regarding investigations in healthcare settings
  - TDOH Healthcare Investigation Steps
- April 17, 2020: Governor issues Executive Order No. 25
  - Relieves nurse practitioners and physicians' assistants of requirement of collaborating with a physician to write and sign and prescriptions
  - Relaxes licensing requirements for dental students

TEXAS

Through an executive proclamation dated March 13, 2020 Governor Abbot declared a state of disaster in Texas.

On March 19, 2020, Dr. John Hellerstedt, commissioner of DSHS, declared a public health disaster in Texas, because COVID-19 "has created an immediate threat, poses a high risk of death to a large number of people, and creates a substantial risk of public exposure because of the disease's method of transmission and evidence that there is community spread in Texas."

Executive Order No. GA-08 (effective March 21, 2020) announced in part that people shall not visit nursing homes, retirement homes, or long term care facilities unless to provide critical assistance. It was in effect until April 3, 2020.

Executive Order No. GA-09 - (effective March 22, 2020 through April 21) All licensed health care professionals and all licensed health care facilities shall postpone all surgeries and procedures that are not immediately medically necessary to correct a serious medical condition of, or to preserve the life of, a patient who without immediate performance of the surgery or procedure would be at risk for serious adverse medical consequences or death, as determined by the patient's physician; provided, however, that this prohibition shall not apply to any procedure that, if performed in accordance with the commonly accepted standard of clinical practice, would not deplete the hospital capacity or the personal protective equipment needed to cope with the COVID- 19 disaster.

Executive Order No. GA-10 (March 24) - All hospitals licensed under Chapter 241 of the Texas Health and Safety Code, and all Texas state-run hospitals, except for psychiatric hospitals, shall submit to DSHS daily reports of hospital bed capacity, in the manner prescribed by DSHS. DSHS shall promptly share this information with the CDC. Every public or private entity that is utilizing an FDA-approved test, including an emergency use authorization test, for human diagnostic purposes of COVID-19, shall submit to DSHS, as well as to the local health department, daily reports of all test results, both positive and negative. DSHS shall promptly share this information with the CDC.

Executive Order No. GA-14(effective April 2, 2020) announced in part that people shall not visit nursing homes, state supported living centers, assisted living facilities, or long-term care facilities unless to provide critical assistance as determined through guidance from the Texas Health and Human Services Commission. This order extending/superseded GA-08 and continues until April 30, 2020.

It should also be noted that Governor Abbott announced reporting requirements for hospitals, healthcare facilities, and anyone using an FDA approved test on March 24, 26, and 30. These mandated reporting positive tests, number of available beds, etc.

DEPARTMENT OF INSURANCE - Regulation 38360 2020 - Ensures adequate access to telemedicine medical and telehealth service in response to the coronavirus pandemic.

Executive Action – 3.25.2020 - Waived certain licensing renewal and subsequent fees for nurses in Texas and authorized a six-month grace period for nurses with expired licenses.

Under the Authority of Texas Government Code Section 418.108, Dallas County Judge Clay Jenkins issued an Order regarding Long-Term Care Facilities (LTCFs) in Dallas County, TX on March 29, 2020. This Order announced how LTCFs, health care staff and facilities should handle residents identified with a COVID-19 diagnosis. The Order was also followed by an outline of DCHHS Social Distancing Rules.
https://www.dallascounty.org/Assets/uploads/docs/hhs/2019-nCoV/March%2029%20Order%20Regarding%20Long-Term%20Health%20Facilities.pdf

Through a proclamation dated April 12, 2020 the Governor extended the date of disaster in the state of Texas.

Department of Health Recommendations (Recommended Standard of Care)
https://www.dshs.state.tx.us/coronavirus/healthprof.aspx

The Texas Department of Health and Human Services has a number of sources available for hospitals and health care providers in planning their response to COVID-19. These are broken down into the subcategories:

- Evaluating patients
  - » Multiple Hyperlinks direct viewers to CDC guidelines
  - » Has two separate pdf flowcharts for initial screening and public health monitoring.
- Preparedness Tools
  - » **Nursing Facilities/Long Term Care Facilities**
    - Emergency Rule §19.2801 issued April 3 – July 3: includes provisions requiring facilities to take temperature of all who come in and deny entry to anyone with a fever aside from residents (this also does not apply in "emergency situations")
    - A comprehensive pdf guide for nursing facilities (version 2.3 made available on April 16 – other version/publication date not available)
      - o This document provides NFs immediate actions to consider and actions for extended periods after a facility is made aware of potential infection of a resident, provider or visitor.
      - o Includes a "to do" best practices list.
  - » **Outpatient and Ambulatory Care Center**
    - Hyperlink to CDC website with guidelines/best practices for these facilities
  - » **Hospital Preparedness Checklist**
    - Hyperlink to CDC pdf dated March 24 for hospital preparedness
  - » It should be noted that for all "preparedness tools" aside from nursing facilities/long term care, the Texas HHS directs viewers to CDC standards of care
- Hospital Reporting Requirements
  - » Hospital must report their daily bed availability and other COVID-19 essential elements. See Executive Order No. GA-10

- Infection Control
  - » Multiple Hyperlinks direct viewers to CDC guidelines
  - » COVID-19 waste is also to be disposed per CDC, WHO, DHS standard medical waste protocols
- PPE
  - » Multiple Hyperlinks direct viewers to CDC guidelines
  - » On March 22, the Texas DHHS stated that healthcare workers should wear Standard, Contact, and Airborne Precautions . (pdf available from hyperlink listed above).
  - » On April 7, the provided a fact sheet of best practices for optimizing PPE and reusing if necessary. These strategies are based on CDC recommendations.
- Requests for Assistance
  - » Directs hospitals and health care providers who are unable to obtain PPE from their vendors to file a request for the same.
- Isolation Precaution
  - » On April 13, instructions were posted that included a section for health care workers that have tested positive for the virus. A Fact sheet instructs workers to:
    - Wear a facemask at all times in the facility until all symptoms have resolved or 14 days after the positive test result (whichever is later)
    - Be restricted from severely immunocompromised patients
    - Adhere to CDC guidelines on hygiene and cough etiquette
    - Self monitor symptoms
  - » An earlier guideline was posted on March 23 which included a non test-based method for releasing cases and contacts from home isolation and quarantine.
  - » Additional hyperlinks to CDC guidelines
    - Development in Treatment and Products
  - » Multiple sources (e.g. Stanford Medicine's Research, FDA, CDC) for ongoing developments in treatment and research
- Resources for Pharmacies
- Postmortem Guidance
- Laboratory Testing

It should also be noted that the hyperlinks for the above are available from https://www.dshs.state.tx.us/coronavirus/healthprof.aspx The pdfs specific to Texas HHS must be downloaded to be viewed. The CDC links are available under the title in which they are mentioned.

UTAH

General Information:

- Utah Recommendations for Healthcare Providers
  - » Includes CDC and Utah-issued recommendations.
  - » https://coronavirus.utah.gov/recommendations-for-providers/
- Utah Department of Health Treatment suggestions for COVID-19
  - » Treatment suggestions include bedside manner and dosage regimens
  - » https://coronavirus.utah.gov/wp-content/uploads/Treatment-Suggestions-for-COVID19rev.pdf

Timeline:

- March 6 (Executive Order 2020-1) Declaration of State of Emergency issued
  - » https://rules.utah.gov/wp-content/uploads/Utah-Executive-Order-No.-2020-1.pdf
- March 23: State Public Health Order restricting non-urgent surgeries
  - » https://drive.google.com/file/d/12gNfyF1fHbhI_kv3L6jq-KeU4dkGtK2d/view

Liability Waiver:

- A bill (SB 3002) giving legal immunity to physicians who prescribe off-label or experimental medications to coronavirus patients passed the Utah Senate on Thursday, April 16 and the Utah house on Friday, April 17.
  - » The bill states that a healthcare provider would be "immune from civil liability for any harm resulting from any act or omission in the course of providing health care during a declared major public health emergency" if the health care was provided in good faith or "the act or omission was the direct result of providing health care to a patient for the illness or condition that resulted in the declared major public health emergency."
  - » The bill also says that physicians and healthcare providers could still be held civilly liable for "grossly negligent" care and "intentional or malicious misconduct."
    - https://le.utah.gov/~2020S3/bills/static/SB3002.html

Statute of Limitations:

- No specific or statewide court orders regarding statute of limitations.
- https://www.utcourts.gov/alerts/

VERMONT

On April 10, 2020, Governor Scott issued **Addendum 9 to Executive Order No. 01-20** to clarify that under protections afforded by 20 V.S.A. § 20, Health Care Facilities, Health Care Providers, and Health Care Volunteers would be **immune from civil liability for any death, injury, or loss resulting from COVID-19 related emergency management services or response activities.** Importantly, the Order excludes from immunity cases of willful misconduct or gross negligence.

The Order took effect upon signing (April 10, 2020) and continues in full force and effect until midnight on **May 15, 2020**. On May 15, the Governor will determine whether to amend or extend the Order.

The definitions provided in the Order are explicitly not intended to limit or narrow the scope of immunities provided. The term "**emergency functions**" includes services provide by the public safety, firefighting services, police services, sheriff's department services, medical and health services, evacuation of persons, emergency welfare services, protection of critical infrastructure, emergency transportation, and all other activities necessary or incidental to carrying out these functions.

The term "**emergency management**" means the preparation for and implementation of all emergency functions. This term does not include functions for which the military forces or other federal agencies are primarily responsible. Examples of emergency management or response activity may include expedited postponement of non-essential adult elective surgery, cancelling or denying elective surgeries, redeployment or cross training of staff not typically assigned to such duties, planning or enacting crisis standard-of-care measures, or reduced record-keeping. This list is non-exhaustive.

"**Health Care Facilities**" is defined in the order to mean state-licensed nursing homes, Middlesex Therapeutic Community residence, all state-license assisted living residences, Level III residential care homes, intermediate care facilities for individuals with intellectual disability, all state therapeutic community residences, Level IV residential care homes, all hospitals, and all alternate or temporary hospital sites and other isolation, quarantine, or housing sites designated for the treatment of, or alternate shelter for those who have been exposed to or infected with COVID-19.

The term "**health care providers**" means all health care providers as defined in 18 V.S.A. § 9432(9), including volunteers who are providing health care services in response to the COVID-19 outbreak and are authorized to do so.

"**Health Care Volunteers**" encompasses all volunteers or medical or nursing students who do not have licensure who are providing services, assistance, or support at a Health Care Facility in response to the COVID-19 outbreak and are authorized to do so.

Vermont Timeline

- January 23, 2020: Vermont Department of Health issues health advisory regarding novel coronavirus
- February 11, 2020: Vermont Department of Health issues health advisory regarding Novel Coronavirus update for providers
- March 5, 2020: Vermont Department of Health issues COVID-19 Long-Term Care Facility Advisory
- March 5, 2020: Vermont Department of Health issues health advisory regarding preparation of community transmission of COVID-19 in Vermont
- March 6, 2020: Vermont Department of Health issues health alert regarding laboratory testing for novel coronavirus
- March 10, 2020: Vermont Department of Health issues guidelines for death certification and disposition of remains
- March 13, 2020: Vermont Department of Health issues guidance regarding personal protective equipment conservation measures
- March 13, 2020: Vermont Governor issues Executive Order No. 01-20
  - » Declaration of State of Emergency in Response to COVID-18 and National Guard Call-Out
  - » State-licensed nursing homes, Vermont Psychiatric Care Hospital, Middlesex Therapeutic Community Residence, state-licensed assisted living facilities, residential care homes, intermediate care facilities for individuals with intellectual disability, and state therapeutic community residences required to prohibit or limit visitor access
  - » Hospitals required to restrict visitor access
  - » Increase medical and nursing services
- March 14, 2020: Vermont Department of Health issues guidance regarding COVID-19 Diagnostic Testing
- March 18, 2020: Vermont Department of Health issues temporary enforcement guidance regarding annual fit testing requirements
- March 19, 2020: Vermont Department of Health issues COVID-19 and Dental Health Care guidance
- March 20, 2020: Vermont Department of Health issues guidance to reduce facility-based transmission of COVID-19 in congregate care settings
- March 20, 2020: VDOH issues laboratory testing process update
- March 20, 2020: Vermont Governor issues Addendum 3 to Executive Order 01-20
  - » Suspension of all Non-Essential Adult Elective Surgery and Medical and Surgical Procedures
- March 23, 2020: VDOH issues clarification regarding COVID-19 and Dental Health Care
- March 23, 2020: VDOH issues recommendations to facilitate the transfer of deceased patients from nursing homes, long term care facilities and hospice facilities
- March 25, 2020: VDOH issues additional information regarding laboratory testing
- March 26, 2020: VDOH issues changes to VDOH Contact Tracing Procedures for laboratory-confirmed cases of COVID-19
- March 27, 2020: VDOH issues update on COVID-19 diagnostic testing in Vermont
- March 28, 2020: VDOH issues update on COVID-19 diagnostic testing for Southern Vermont
- March 31, 2020: VDOH calls on licensed and certified health care professionals to sign up with the state's Medical Reserve Corps

- April 3, 2020: VDOH issues criteria for health care workers with confirmed or suspected COVID-19 to return to work
- April 8, 2020: VDOH issues guidelines on requesting and using personal protective equipment
- April 10, 2020: Vermont Governor Issues Addendum 9 to Executive Order 01-20
  - » Extension of March 13 Declaration of State of Emergency
  - » **Provides legal immunity for Health Care Facilities, Health Care Providers, and Health Care volunteers who are providing COVID-19 related emergency management services or response activities** (see above)
- April 10, 2020: VDOH issues guidance on hospital discharge for COVID-19 patients
- April 16, 2020: VDOH issues updated guidelines for death certification and disposition of remains for health care providers/facilities

VIRGINIA

Virginia has yet to implement any state level immunity orders.

http://www.vdh.virginia.gov/coronavirus/health-professionals/

Timeline

March 12, 2020 – E0-51: Declaration of state of emergency due to novel coronavirus. *See* LINK

March 20, 2020 – E0-52: Authorizes any general hospital or nursing home to increase licensed bed capacity until June 10, 2020. *See* LINK

March 20, 2020 – Declaration of Public Health Emergency. *See* LINK

March 25, 2020 – Order prohibiting not critical surgeries. *See* LINK

April 17, 2020 – Order addressing licensing of health care professionals, telemedicine, and scope of practice. *See* LINK

April 17, 2020 – Virginia Department of Health guidance on testing for COVID-19. *See* LINK

Tolling of Statute of Limitations

Tolling of statutes of limitations extended to April 26. *See* LINK

WASHINGTON

General Information:

- Washington State Department of Health Healthcare Provider Resources & Recommendations
  - https://www.doh.wa.gov/Emergencies/NovelCoronavirusOutbreak2020COVID19/HealthcareProviders
- Washington State Department of Health COVID-19 Guidance for Home Care, Home Health, and Hospice Agencies
  - Provides guidance (mainly citing to CDC) regarding: infection control, protecting staff and patients, and environment cleaning and disinfection.
    - https://www.doh.wa.gov/Portals/1/Documents/1600/coronavirus/HomeHealth-Hospiceguidance.pdf
- Washington State Department of Health First Responder Resources & Recommendations
  - Includes OSHA, CDC and State-issued guidance. State-issued guidance included below.
  - https://www.doh.wa.gov/Emergencies/NovelCoronavirusOutbreak2020COVID19/HealthcareProviders/FirstResponders

Timeline:

- February 29 (Proclamation 20-05): Governor Inslee declares state of emergency
  - https://www.governor.wa.gov/sites/default/files/proclamations/20-05%20Coronavirus%20%28final%29.pdf?utm_medium=email&utm_source=govdelivery
- March 10 (Proclamation 20-06): Governor Inslee issues new rules to protect older adults in nursing homes and living facilities. These new rules include:
  - Visitors must be adults and the visit must take place in the resident's room. This does not apply to end-of-life situations.
  - All visitors must follow COVID-19 screening and follow reasonable precautionary measures. Precautionary measures include, but are not limited to, wearing personal protective equipment, social distancing, or visiting in designated locations.
  - All visitors must sign into a visitor's log. Owners and operators must retain that log for 30 days.
  - Employees or volunteers must be screened for COVID-19 symptoms at the start of each shift.
  - People who live in nursing homes or assisted living facilities and who test positive for COVID-19 must be isolated away from other people.
  - Owners, operators, staff and volunteers are prohibited from disclosing protected and confidential health information, except as otherwise provided by law or with the resident's consent.
    - https://www.governor.wa.gov/sites/default/files/proclamations/20-06%20Coronavirus%20%28tmp%29.pdf?utm_medium=email&utm_source=govdelivery
- March 13 (Proclamation 20-10): Governor Inslee issues proclamation waiving some statutory and regulatory obligations or limitations that would hinder action by long-term care workers necessary for coping with COVID-19.
  - 19 provisions listed in Proclamation.
    - https://www.governor.wa.gov/sites/default/files/proclamations/20-10%20Coronavirus%20LTC%20Workers%20%28tmp%29.pdf

- March 16 (Proclamation 20-16): Governor Inslee issues proclamation prohibiting long term care providers (listed within the proclamation) from allowing any person, including friends or family, to enter the facility to visit a resident.
  - » This prohibition does not apply to end of life situations or to visits by attorneys, administrative law judges, advocates or similar persons who represent a resident.
  - » Further, it does not apply to vendors or volunteers who supply or work in a facility.
    - https://www.governor.wa.gov/sites/default/files/proclamations/20-16%20Coronavirus%20No%20visitors%20LTC%20%28tmp%29.pdf
- March 17 (Proclamation 20-17): Governor Inslee issues proclamation amending Proclamation 20-16 (above) to include Evaluation and Treatment Facilities and Residential Treatment Facilities
  - » https://www.governor.wa.gov/sites/default/files/proclamations/20-17%20COVID-19%20Prohibiting%20Visitors%20at%20LTCs%20%28tmp%29.pdf
- March 18 (Proclamation 20-18): Governor Inslee issues proclamation waiving some statutory and regulatory obligations or limitations that would risk destabilizing the state's long term care system and prevent, hinder, or delay the response by the Department of Social and Health Services to the COVID-19 pandemic.
  - » 23 provisions listed in the proclamation
    - https://www.governor.wa.gov/sites/default/files/proclamations/20-18%20-%20COVID-19%20-%20DSHS%20Waivers%20%28tmp%29.pdf
- March 19 (Proclamation 20-24): Governor Inslee issues proclamation prohibiting all hospitals, ambulatory surgical facilities, dental, orthodontic and endodontic offices in Washington State from providing health care services, procedures, and surgeries that, if delayed, are not anticipated to cause harm to the patient within the next three months.
  - » Certain exceptions listed in proclamation
    - https://www.governor.wa.gov/sites/default/files/proclamations/20-24%20COVID-19%20non-urgent%20medical%20procedures%20%28tmp%29.pdf
- March 26 (proclamation 20-32): Governor Inslee issues proclamation waving waives requirements necessary for health care workers to remain licensed to practice in the state, including ongoing training and continuing education requirements.
  - » Specific provisions for specific health care workers are listed in the proclamation
    - https://www.governor.wa.gov/sites/default/files/proclamations/20-32%20-%20COVID-19%20DOH%20Healthcare%20Worker%20Licensing%20%28tmp%29.pdf?utm_medium=email&utm_source=govdelivery
- March 30 (proclamation 20-38): Governor Inslee issues proclamation waving statutory and regulatory obligations or limitations which would prevent, hinder, or delay necessary action by the Department of Social and Health Services to license additional long-term care facilities to increase nursing home bed capacity.
  - » Specific provisions included in the proclamation
    - https://www.governor.wa.gov/sites/default/files/proclamations/20-38%20-%20COVID%2019%20DSHS%20Facilities%20%28tmp%29.pdf

- March 30 (Proclamation 20-37) Governor Inslee issues proclamation waving statutory and regulatory obligations or limitations will prevent, hinder, or delay the provision of necessary essential care services for vulnerable adults in nursing home facilities by requiring registered nursing assistants to complete training and testing to become certified nursing assistants within four months of employment with a nursing home.
  - » https://www.governor.wa.gov/sites/default/files/proclamations/20-37%20COVID-19%20DSHS%20NAR%20Waiver%20%28tmp%29.pdf
- April 2: Return to work guidance for healthcare workers and first responders who have confirmed COVID-19 or are asymptomatic with high or medium risk exposures to a known case of COVID-19
  - » https://www.doh.wa.gov/Portals/1/Documents/1600/coronavirus/HealthCareworkerReturn2Work.pdf
- April 3: PPE Conservation Strategies
  - » Includes PPE conservation strategies of N-95 Respirators, PAPR/CAPR hoods, surgical masks, other masks, and gowns.
    - https://www.doh.wa.gov/Portals/1/Documents/1600/coronavirus/PPEConservationStrategies.pdf
- April 9: COVID-19 Infection Control: Aerosol-Generating Procedures
  - » Recommends healthcare workers performing aerosol-generating procedures wear a fitted respirator mask instead of a surgical mask.
    - https://www.doh.wa.gov/Portals/1/Documents/1600/coronavirus/COVID19InfectionControlForAerosolGeneratingProcedures.pdf
- April 10: Interim Prioritization Guidelines for Allocation of Personal Protective Equipment (PPE)
  - » Includes factors considered in deciding prioritization tiers for PPE distribution.
    - https://www.doh.wa.gov/Portals/1/Documents/1600/coronavirus/PPEPrioritizationofAllocation.pdf

Liability Waiver:

- There has been no liability waiver specifically enacted for COVID-19
- RCW 70.15.110: Registered volunteer providers are immune from liability (except for gross negligence or willful/wanton misconduct)

Statute of Limitations:

- No specific or statewide court orders regarding statute of limitations.
- https://www.courts.wa.gov/newsinfo/index.cfm?fa=newsinfo.COVID19

WEST VIRGINIA

1. **March 19, 2020** **Executive Order 7-20**: Suspending certain health care regulations regarding licensure (partially amended)
2. **March 21, 2020** Pharmacy Board Rule on Chloroquine and Hydroxychloroquine prescriptions
3. **March 23, 2020** Registered Professional Nurses Rule waiving certain requirements for licensure and APRN prescription
4. **March 23, 2020** **Executive Order 10-20**: Waiving Regulations of APRNs, CRNAs, and RNs and Amending E.O. 7-20's health care provisions.
5. **March 24, 2020** Speech Language Pathology & Audiology Rules re tele-practice by provisional licensees and assistants
6. **March 25, 2020** Respiratory Rule re licensure of respiratory therapists
7. **March 25, 2020** **Executive Order 11-20**: regulation of PA licensure, amending E.O. 7-20
8. **March 26, 2020** Osteopathic Medical Board Rules re licensure and PAs
9. **March 26, 2020** Medical Board Rules re licensure, PAs, prescription of controlled substances, educational permits
10. **March 26, 2020** **Executive Order 12-20** rescinding portions of E.O. 10-20 re supervision of CRNAs and APRN's prescription authority
11. **March 30, 2020** Pharmacy Board Rule on prescribing Schedule II substances
12. **March 31, 2020** **Executive Order 16-20**: Prohibiting Elective Medical Procedures
13. **March 31, 2020** **Executive Order 17-20** Temporary suspension of 90-day physical exam under Opioid Reduction Act and allowing Nursing Board to Suspend Certain Rules for CRNAs and APRNs
14. **April 6, 2020** WV DHHR suspension of certain EMS rules
15. **April 7, 2020** WV DHHR suspension of rules re handling of infectious medical waste
16. **April 9, 2020** Registered Nurses Suspension of minimum standards and permits for dialysis techs
17. **April 13, 2020** **Executive Order 26-20**: Granting Authority to Waive Speech Language Pathology regulations for out-of-state practitioners
18. **April 17, 2020** **Executive Order 27-20:** Mandatory testing of all individuals residing or working in nursing homes
19. **April 20, 2020** **Executive Order 28-20**: Amending E.O.16-20 to allow resumption of certain urgent elective procedures no earlier than April 28, 2020

Dashboard of All Administrative Rules Suspended pursuant to Emergency Proclamation

Medical Board COVID-19 Information Dashboard - Last Updated April 20, 2020: guidance on hospital referrals, testing criteria, handling clinical specimens, death certifications, prescriptions, telemedicine, hygienic products and practices, behavioral health, and assorted other topics.

Nursing Board COVID-19 Information Dashboard - Last Updated April 20, 2020: guidance on monitoring agreements, telemedicine/telenursing, practice changes for RNs and APRNs (including prescriptions of Schedule II substances), and dialysis technician practice changes.

Pharmacy Board COVID-19 Center - Last Updated April 9, 2020: guidance on life sustaining medication, medication refills, remote processing of prescriptions, signatures for sale of medication, licensure, and PPE.

WISCONSIN

https://govstatus.egov.com/wi-covid-19

- March 12, 2020
  - » E.O. 72 declared a state of emergency
- Medicaid Telehealth, effective March 12, 2020 until the end of the public health emergency (https://www.forwardhealth.wi.gov/kw/pdf/2020-12.pdf)
  - » Wisconsin Medicaid will allow remote services utilizing interactive synchronous technology, including audio-only phone communication, for services that can be delivered with functional equivalency to the face-to-face service
  - » Wisconsin Medicaid will allow mental health screenings to be conducted via telehealth
- March 23, 2020
  - » Michigan Supreme Court issued Administrative Order 2020-3 which extended all deadlines pertaining to case initiation and the filing of initial responsive pleadings in civil and probate matters during the state of emergency
- March 24, 2020
  - » E.O. 12 Safer at Home Order requires everyone to say at their home
- E.O. 19 March 27, 2020
  - » Telemedicine
    - A physician providing telemedicine in the diagnosis and treatment of a patient who is located in the state must have a valid and current license issued by the state, another state, or Canada.
    - Insured patients are encouraged to continue to work with their insurance providers to ensure they are selecting providers in-network
    - OCI is directed to continue working with malpractice insurance carriers to facilitate coverage outside of the traditional health care facility settings and to continue working with health insurers to minimize out-of-network barriers for insured patients seeking telemedicine services
  - » Suspended administrative rules pertaining to physician assistants and nursing
- April 2, 2020
  - » E.O. 19 requires Local Health Officers to report the addresses of individuals they know have tested positive to any dispatch center. These dispatch centers shall inform law enforcement officers, first responders, and public safety workers, if there has been a positive COVID-19 test result at a specific address where they are making a contact for a legitimate purpose.
- April 3, 2020
  - » E.O. 21 suspends the Department of Health Services Administrative Rules
- 2019 Wisconsin Act 185, April 15, 2020 (https://content.govdelivery.com/ attachments/WIGOV/2020/04/15/file_attachments/1428100/ab1038.pdf)
  - » 895.4801 Immunity for health care providers: Any health care professional, health care provider, or employee, agent, or contractor of a health care professional or health care provider is immune from civil liability for the death of or injury to any individual or any damages caused by actions or omissions that satisfy all of the following: (a) The action or omission is committed while the professional, provider, employee, agent, or contractor is providing services during the state of emergency declared under s.

323.10 on March 12, 2020, by executive order 72, or the 60 days following the date that the state of emergency terminates. (b) The actions or omissions relate to health services provided or not provided in good faith or are substantially consistent with any of the following: 1. Any direction, guidance, recommendation, or other statement made by a federal, state, or local official to address or in response to the emergency or disaster declared as described under par. (a). 2. Any guidance published by the department of health services, the federal department of health and human services, or any divisions or agencies of the federal department of health and human services relied upon in good faith. (c) The actions or omissions do not involve reckless or wanton conduct or intentional misconduct

- April 16, 2020

E.O. 28 Safer At Home order becomes effective on April 24, 2020 and remains until May 26, 2020.

WYOMING

General Information:

- Wyoming Department of Health Infectious Disease Epidemiology Unit COVID-19 Information for Healthcare Providers
  - » Provides guidelines from the CDC and gathered by the Wyoming Medical Society
  - » https://health.wyo.gov/publichealth/infectious-disease-epidemiology-unit/disease/novel-coronavirus/covid-19-information-for-healthcare-providers/

Timeline:

- March 13: Declaration of State of Emergency issued
  - » https://drive.google.com/file/d/19mX3feCje2NKRrKi_GPiKvwcckGVoVBh/view
- April 10: Wyoming Department of Health Guidance for COVID-19
  - » 11-page document providing guidance regarding testing, reporting cases, clinical management, control measures infection prevention, and control recommendations.
    - https://health.wyo.gov/wp-content/uploads/2020/04/Coronavirus-Disease-2019-HAN-10_4.10.20.pdf

Civil Liability:

- There has been no liability waiver specifically enacted for COVID-19

Statute of Limitations:

- No specific or statewide court orders regarding statute of limitations.
- https://www.courts.state.wy.us/coronavirus-covid-19-updates/

50-STATE SURVEY

Telehealth

View a Quick Reference Chart which categorizes the below listed State Actions re TELEHEALTH:
https://www.cchpca.org/sites/default/files/2020-04/STATE%20TELEHEALTH%20ACTIONS%20IN%20RESPONSE%20TO%20COVID%20OVERVIEW%204.8.2020.pdf

STATE	ACTION TAKEN (click to view source doc)
ALABAMA	Medicaid – Temporary expansion of Telemedicine Coverage
	Medicaid – Telemedicine origination site facility fee
ALASKA	Temporary Expansion of Medicaid Telehealth Coverage
	Medicaid Update
	Eligible Services
ARIZONA	Executive Order on the Expansion of Telemedicine
ARKANSAS	Executive Order – for the purpose of encouraging treatment and communication by technology
	Telemedicine Requirements for Physicians during the COVID-19 Public Health Emergency
CALIFORNIA	Behavioral Health Bulletins
	Health Plans (Department of Managed Health Care)
	Health Plans (Department of Insurance)
	Medicaid
	Medicaid Managed Care
	Medicaid guidance on provider enrollment including out-of-state providers
	Health plans coverage for telehealth
	Executive Order to Expand Telehealth Services - Privacy & Security
	All Plan Letter - Billing for Telehealth Services; Telehealth for the Delivery of Services
COLORADO	Plans were directed to conduct outreach and education campaigns to remind enrollees of their telehealth options and to provide telehealth services to cover COVID-19-related in-network telehealth services at no cost share.
	Temporary Expansion of Telehealth Services
CONNECTICUT	Temporary Coverage for Telehealth
	New Coverage of Specified Telemedicine Services
DELAWARE	Medicaid
	Medicaid COVID-19 Telehealth Policy

STATE	ACTION TAKEN (click to view source doc)
FLORIDA	Executive Order – Suspension of Statues, Rules and Orders, Made Necessary by COVID-19
	Medicaid Telemedicine Guidance for Medical and Behavioral Health Providers
	Telemedicine Guidance for Behavior Analysis Services
	Telemedicine Guidance for Therapy Services and Early Intervention Services
GEORGIA	Medicaid – updated telehealth
HAWAII	
IDAHO	Health Plans & Establishing Patient-Provider Relationship
ILLINOIS	Provider notice allowing screenings to be conducted telephonically.
	Expansion of Telehealth Services
	Medicaid Telehealth Services Expansion Prompted by COVID-19
INDIANA	Executive Order
	IHCP Bulletin
	IHCP Telemedicine FAQs
IOWA	Medicaid
KANSAS	Temporary Expansion of Telemedicine and certain telemedicine requirements
KENTUCKY	Medicaid Provider Letter
	Telehealth Coverage & Reimbursement
	Dept. of Medicaid Services Statement of Emergency
	Dept. of Medicaid Services home and community based services waiver providers
	Medicaid Telehealth Guidance for Behavioral Health Providers
LOUISIANA	Medicaid Update - allows telephonic emergency management services
	Emergency Rule – Telemedicine Expansion
MAINE	MaineCare Guidance related to telehealth and telephone services during COVID-19
	Insurance Emergency Response Order
MARYLAND	Medicaid
MASSACHUSETTS	Medicaid Managed Care Plans required to cover telehealth and certain telephonic services as a means by which members may access all clinically appropriate, medically necessary covered services.
	Health Plans to Cover Telehealth
	MassHealth Coverage and Reimbursement Policy for Services Related to COVID-19
	Licensing

STATE	ACTION TAKEN (click to view source doc)
MICHIGAN	Medicaid will allow homes to be an eligible originating site
	Expansion of Telemedicine Policy, including telephonic only communication.
MINNESOTA	Enacted Legislation: Private Payer Reimbursement during COVID-19
MISSISSIPPI	Medicaid Emergency Waiver – allows telephonic emergency management services
MISSOURI	Medicaid will waive requirement of pre-existing relationship prior to providing services via telehealth and allow services to be provided to enrollee while at home via telephone.
	Medicaid
	Temporary Expansion of Telehealth Services
MONTANA	Medicaid
	Health Plans actions on Telehealth
NEBRASKA	Medicaid provider bulletin – telephone patient communications
NEVADA	Medicaid Telehealth billing guidelines
	Medicaid Provider Memo – telehealth services
	Updated Provider Memo – telehealth and group therapy
NEW HAMPSHIRE	Temporary Expansion of Telehealth Services
NEW JERSEY	Expedite Licensure of Out of State Professionals
	Medicaid Temporary Telehealth Guidelines
	Use of Telehealth to respond to COVID-19 - Dept. of Banking and Insurance
	Enacted Legislation (AB 3843): Health carrier and Medicaid Coverage
	Enacted Legislation (AB 3860): Telehealth Requirements
NEW MEXICO	Temporary expansion of telehealth services
	COVID-19 Guidance for MCOs
NEW YORK	Providers who submit a "self-attestation" form will be able to provide telemental health for people affected by disaster emergency for a time-limited period.
	Reimbursement for Phone Services
NORTH CAROLINA	Medicaid
NORTH DAKOTA	COVID-19 Temporary Telehealth Policy
OHIO	Emergency Rule Expanding Telehealth for medical and behavioral health services
	Appendix with new telehealth eligible Procedure Codes
OKLAHOMA	Healthcare Authority guidance's including Expanded use of telehealth and telephonic services during COVID-19

STATE	ACTION TAKEN (click to view source doc)
OREGON	Oregon Health Plan coverage of telephone/telemedicine/telehealth services
	Telemedicine Rule to Align with Updated Practice Guidelines
	Prioritized List of Covered Health Services to Improve Access to Telehealth
PENNSYLVANIA	Medicaid
RHODE ISLAND	Executive Order Expanding access to telemedicine services
	Health Insurance Commissioner & Medicaid Program Instructions
	Emergency Telemedicine Measures
	Emergency Reciprocal Licensing Instructions
SOUTH CAROLINA	Medicaid - COVID-19 Temporary Telephonic and Telehealth Services
	Health Insurance Issuer's COVID-19 Response
SOUTH DAKOTA	Medicaid – temporary expansion of telemedicine services during COVID-19
TENNESSEE	Executive Order
	Behavioral Health Telehealth Services for TennCare Enrollees - Novel COVID-19
TEXAS	Allowing phone consults and easing some regulations
	COVID-19 Guidance: Targeted Case Management Through Remote Delivery
UTAH	Executive Order – suspending enforcement of statues relating to telehealth services
VERMONT	Vermont Medicaid Payments for Telephonic Services Furnished During the Emergency Response to COVID-19
	Emergency Rule - Coverage of health care services delivered through telehealth, telephone or store-and-forward means.
	Passed legislation, H. 742, that expands access to health care services provided through telehealth and telemedicine.
VIRGINIA	Medicaid
WASHINGTON	WA Health Care Authority Offers No-Cost Telehealth Zoom Licenses for Providers
	Telemedicine Medicaid Coverage Brief
	Family Planning Only Program Telemedicine Services
	Proclamation providing payment parity between health care services provided in-person and those provided through telemedicine
WASHINGTON D.C.	Medicaid Program Update
	Medicaid
	Guidance on Use of Telehealth

STATE	ACTION TAKEN (click to view source doc)
WEST VIRGINIA	Allowing non-emergent E&M services via telehealth in Medicaid
	Medicaid E&M Guidance
	Medicaid Guidance Non-emergent E&F for FQHCs/RHCs
	Medicaid Guidance Psychological Testing and Evaluation Services
WISCONSIN	Temporary changes to telehealth policy and clarifications for behavioral health and targeted case management providers
	Changes to ForwardHealth telehealth policies for covered services, originating sites, and FQHCs
WYOMING	Health plans reminded that consumer should be able to access their current provider via telehealth
	Phone or video flexibilities for Case Management

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