CLIENT ALERTS & INSIGHTS

Good Samaritan Expansion Bill: Ohio Health Care Provider Temporary Civil Immunity

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Favorable news for Ohio health care providers during this difficult COVID pandemic: on September 14, 2020, Ohio Governor Mike DeWine signed the ***Good Samaritan Expansion Bill***, House Bill 606, into law. The law provides immunity from civil lawsuits filed as a result of the SARS-CoV-2 novel coronavirus disease 2019 ("COVID-19") pandemic for many types of health care providers.

Effective Date

While slow to the table legislatively compared to other states, **the Ohio law provides immunity retroactive to the signing of Governor DeWine's initial Executive Order 2020-01D, issued on March 9, 2020**. This qualified immunity applies from the date of the Governor's Executive Order 2020-01D, issued on March 9, 2020, declaring a state of emergency due to COVID-19, through September 30, 2021, and supersedes section 2305.2311 of the Revised Code during this period.

What this Means for Health Care Providers

Many types of health care providers are covered under the broad qualified immunity. The law grants immunity to health care facilities including hospitals, urgent care facilities, labs, adult day-care, developmental disability facilities, long-term care facilities (skilled nursing facilities, residential care facilities and assisted living), imaging centers, rehab facilities, federally qualified health clinics and temporary health care sites.

The law names over 25 individual health care professional providers and emergency responders that includes emergency medical technicians and volunteers. A complete list of covered health care providers provided this qualified immunity under the new law are listed at the end of this advisory. The immunity also extends to health care providers against any action by a state licensing board for professional disciplinary action.

What the Immunity Covers

Health care providers that provide health care, emergency medical services, first aid treatment, or other emergency professional care, as a result of or in response to a disaster or emergency, i.e., the national COVID pandemic, will be entitled to immunity during this period. As a result, they will not liable in a civil tort action for injury, death, or loss to person or property that allegedly arises from any act or omission, or decision relating to the provision, withholding or withdrawal of the services listed above. This qualified immunity also extends to any health care provider's compliance with an executive order or director's order issued the national COVID pandemic.

Where the Immunity Stops

Immunity is not available where the act or omission constitutes reckless conduct, or intentional, willful or wanton misconduct. Reckless conduct means a disregard for the consequences where the person disregards a substantial and unjustifiable risk.

Liability may be found if a health care provider acts outside of provider's scope of practice, which means their skills, education, and training unless the provider undertakes the action in good faith and in response to a lack of resources caused by the disaster or emergency.

With respect to a professional disciplinary action against a health care provider, the immunity does not apply to any act or omission that constitutes gross negligence: a lack of care so great that it appears to be a conscious indifference to the rights of others.

Class Action Prohibited

Additionally, if the qualified immunity does not apply, class action suits are prohibited against health care providers during the qualified immunity period for allegations of liability for damages for injury, death or loss to person or property on a cause of action related to cause of action defined in the law related to the COVID pandemic.

Specific Types of Providers Listed

The law grants immunity to the follow professionals and providers:

- Nurses
  - Registered nurses
  - Licensed practical nurses
  - Advance practice registered nurses
- Pharmacists
- Dentist and dental hygienists
- Optometrists
- Physicians
- Physician assistants
- Chiropractors
- Physical therapists, occupational therapists, trainers
- Speech-language-pathologists and audiologists
- Massage therapists
- Respiratory care therapists

- Direct support professionals (developmental disability aides)
- Behavioral health providers
  - Alcohol and drug addiction services
  - Mental health services
  - Chemical dependency counselors
  - Prevention consultants
  - Clinical counselors
  - Professional counselors
  - Social workers
  - Marriage and family therapists

- Emergency medical technicians
  - EMTs-basic
  - EMTs-I
  - Paramedics

- Home health agencies
- Hospice care programs
- Health care workers (medical, dental or other health care service workers)

For a high-level summary of the law, see this bulletin.

For more information or to discuss any concerns you may have as a health care provider, please call Lauri Cooper at 216.363.6174.