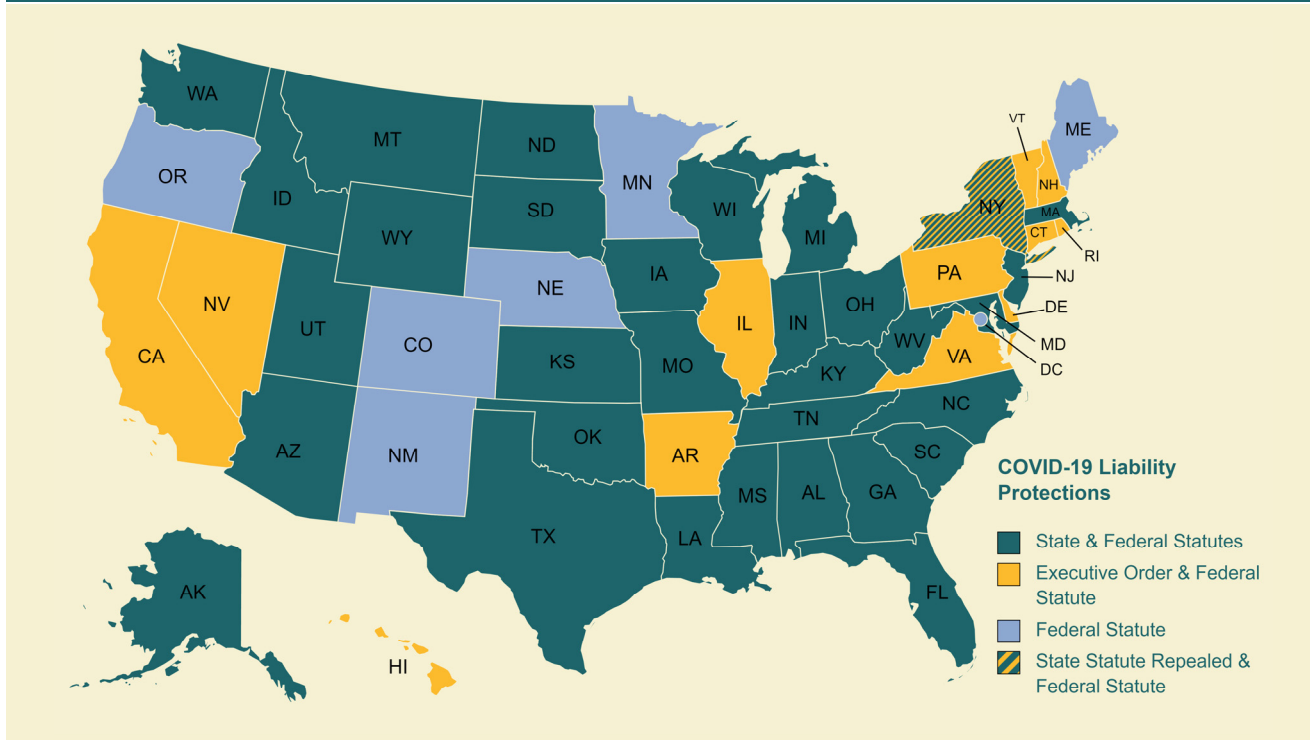




The Doctors Company GOVERNMENT RELATIONS

COVID-19 HEALTHCARE PROVIDER MEDICAL LIABILITY PROTECTION ACTIONS



While the information included in this chart is believed true and correct at the date of publication, June 1, 2021, please verify all information before acting on it, since legislative actions and executive orders created after the time of publication may impact the information's accuracy. For further details, please contact Advocacy@TheDoctors.com.

State	Summary	Status
 Alabama	On March 13, 2020, Alabama Governor Kay Ivey declared a state of emergency regarding the COVID-19 crisis which stated: "healthcare facilities that have invoked their emergency operation plans in response to this public health emergency may implement the 'alternative standards of care' plans provided therein."	Effective March 13, 2020 and continues through the duration of the declared public health state of emergency.


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<p>Alabama (cont.)</p>	<p>In addition, through an executive order, issued May 8, 2020, the Governor instituted civil liability protection for businesses, healthcare providers, and other covered entities for the death or injury of persons or for damage to property arising from any act or omission related to, or in connection with, COVID-19 transmission or a covered COVID-19 response activity unless it is shown by clear and convincing evidence that the injury was caused by the defendant's wanton, reckless, willful or intentional misconduct. If liability is established, and the acts or omissions do not result in serious physical injury (defined in the order), liability shall be limited to actual economic compensatory damages, and no liability shall be awarded for non-economic or punitive damages except in the case of wrongful death where punitive damages may be awarded.</p> <p>For any cause of action that occurred before the date of the May 8, 2020 proclamation and for which a court holds the above rules do not apply, the applicable standard of care shall be proven by clear and convincing evidence that the defendant did not reasonably comply with the then applicable public health guidance. Notwithstanding any other provision of law, a defendant will not be liable for damages from mental anguish or emotional distress or for punitive damages but may be liable for economic compensatory damages in a cause of action that does not involve serious physical injury. This section does not prohibit an award of punitive damages for wrongful death claims, but no other damages shall be allowed for such claims.</p> <p>On February 12, 2021, Governor Kay Ivey signed into law broad liability protections for healthcare providers and facilities in Alabama for the provision of services during the COVID-19 state of emergency. These protections are only breached where a plaintiff proves by clear and convincing evidence that the defendant acted with wanton, reckless, or willful or intentional misconduct. Where liability is established, but the act or omission does not result in serious physical injury, liability is limited to actual economic compensatory damages and in no event will a covered provider be liable for non-economic or punitive damages. Wrongful death claims are limited to punitive damages only. SB 30 also provides two other, less broad layers of protection for any claims deemed to fall outside of the protections described above.</p>	<p>Provisions of SB 30 are effective as of March 13, 2020 and continue through December 31, 2021, or one year after a declared health emergency relating to COVID expires, whichever is later.</p>
 <p>Alaska</p>	<p>Enacted by the legislature and signed by Governor Mike Dunleavy on April 30, 2021, Alaska HB 76 provides that a person is immune from civil and criminal liability for acts performed in good faith at the request of a government agency acting on authority granted during the COVID-19 pandemic. This immunity does not apply to an act or omission that constitutes gross negligence, reckless misconduct, or intentional misconduct. This civil liability protection is retroactive to February 14, 2021 and repealed December 31, 2021 or upon the lifting of the emergency.</p> <p>SB 241 provides that during the COVID-19 state of emergency, "a public health agent or healthcare provider who takes action based on a standing order issued by the chief medical officer is not liable for civil damages resulting from an act or omission in implementing the standing order, except as a result of gross negligence, recklessness, or intentional misconduct."</p>	<p>Portions of HB 76 are effective February 14, 2021 through December 31, 2021.</p> <p>SB 241 is effective March 11, 2020 and through the duration of the law.</p>

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 <p>Arizona</p>	<p>By executive order, Arizona Governor Doug Ducey instituted civil liability protection for Arizona licensed healthcare professionals and volunteer healthcare professionals registered with the State. The liability protection order carries a presumption that healthcare providers acted in good faith. The liability protection also applies to triage decisions made while providing medical services based on good faith reliance of mandatory or voluntary State-approved protocols under the declared COVID-19 state of emergency.</p> <p>Licensed healthcare facilities and any entity operating a modular field treatment facility or other site, whether licensed or not, that is designated by the Arizona Department of Health Services for temporary use in support of the State's COVID-19 response are immune from civil liability for any acts or omissions undertaken in good faith by one or more of its agents, officers, employees, representatives, or volunteers in support of the public health emergency. No protection is provided to providers or facilities for gross negligence or reckless or willful misconduct.</p> <p>In April 2021, Governor Ducey signed into law SB 1377. Under this law, if the Governor of Arizona declares a state of emergency due to a public health pandemic, healthcare providers, including individuals and institutions, who act in good faith are not liable in any civil action for damages for an injury or death alleged to be caused by an act or omission while providing healthcare services in response to the declared state of emergency unless it is proven by clear and convincing evidence that the provider acted or failed to act, and that the act or failure to act was due to the provider's willful misconduct or gross negligence.</p>	<p>Effective March 11, 2020 and continues through the duration of the order.</p> <p>SB 1377 applies to all claims from March 10, 2020 forward.</p>
 <p>Arkansas</p>	<p>By executive order, Governor Asa Hutchinson suspended Arkansas's statutory law to the extent necessary to provide civil liability protection to physicians, physician assistants, specialist assistants, nurse practitioners, licensed registered nurses, and licensed practical nurses. The liability protections may apply to the listed professionals who are acting outside the scope of his or her practice in some limited circumstances but will not apply to anyone acting with gross negligence, willful misconduct, or bad faith.</p>	<p>Effective April 13, 2020 and continues through the duration of the order.</p>
 <p>California</p>	<p>Existing California Government Code § 8659 offers liability protections to healthcare providers who render aid during a declared state of emergency at the express or implied request of any responsible State or local official or agency. It is not clear that this immunity will apply to providers who are treating COVID-19 patients as part of their normal practice. Under the March 4, 2020 state of emergency proclamation in California, Governor Gavin Newsom invoked the "Emergency Management Assistance Compact," which invited healthcare providers from participating states to enter California and render assistance during the COVID-19 crisis. Under this proclamation, any providers who entered California to provide medical care for the COVID-19 crisis would be treated as State actors and entitled to the protections of CA Government Code § 8659.</p>	<p>Effective March 4, 2020 through the duration of the declared state of emergency.</p>



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 Connecticut	<p>Connecticut Governor Ned Lamont issued an executive order stating that all healthcare professionals or healthcare facilities have civil liability protection for any injury or death alleged to have been sustained as a result of good faith acts or omissions while providing healthcare services in support of the State's COVID-19 response. This includes acts or omissions undertaken because of a lack of resources attributable to the COVID-19 pandemic that renders the healthcare professional or healthcare 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. Nothing in the order removes or limits any other liability protection conferred by another provision of the Connecticut General Statutes or other law. This liability protection does not extend to acts or omissions that constitute a crime, fraud, malice, gross negligence, willful misconduct, or would otherwise constitute a false claim or prohibited acts. The liability protection applies to acts or omissions occurring at any time during the public health and civil preparedness emergency declared on March 10, 2020, including any period of extension or renewal, including acts or omissions occurring prior to the issuance of this order attributable to the COVID-19 response effort.</p>	<p>Effective March 10, 2020 and continues through the duration of the order.</p>
 Delaware	<p>Delaware Governor John Carney issued an executive order recruiting out-of-state and retired providers and limited their liability. The order categorizes these providers as public employees and provides them limited liability unless they are found to be grossly negligent. A joint order issued by the Delaware Department of Health and Social Services and the Delaware Emergency Management Agency further clarify the Governor's order.</p>	<p>Effective 5 p.m. March 23, 2020 and remains in effect until further notice.</p>
Federal	<p>Congress passed and the President signed legislation as part of the "CARES" Act that provides limited "Good Samaritan" liability protections for volunteer healthcare professionals providing uncompensated services to assist with the COVID-19 crisis.</p>	<p>Effective January 27, 2020 and continues through the duration of the public health emergency.</p>
	<p>On February 4, 2020, the U.S. Department of Health and Human Services (HHS) issued a federal order which relates to the Public Readiness and Emergency Preparedness Act (PREP). The order added new legal authorities to the Public Health Service (PHS) Act to provide liability protection related to the manufacture, testing, development, distribution, administration and use of medical countermeasures against chemical, biological, radiological, and nuclear agents of terrorism, epidemics, and pandemics.</p> <p>The HHS has applied the liability protections provided by the PREP Act to the COVID-19 virus pandemic as of February 4, 2020. The PREP Act provides protection from liability (except for willful misconduct) for claims of loss caused, arising out of, relating to, or resulting from administration or use of countermeasures to diseases, threats and conditions determined by the Secretary to constitute a present or credible risk of a future public health emergency to entities and</p>	<p>Effective February 4, 2020 and expires October 1, 2024 or the final day the emergency declaration is in effect, whichever occurs first.</p>



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<p>Federal (cont.)</p>	<p>individuals involved in the development, manufacture, testing, distribution, administration, and use of such countermeasures. A PREP Act declaration is specifically required for the purpose of providing protection from liability, and is different from, and not dependent on, other emergency declarations. Most recently, the HHS expanded the scope of the PREP Act immunity to cover potentially more healthcare providers who could administer the vaccine.</p>	
 <p>Florida</p>	<p>On March 29, 2021, Governor Ron DeSantis signed into law SB 72. Under this law, COVID-19 liability claims against a provider must be pled with particularity or the court must dismiss the claim. The standard of proof for a COVID-19 claim is “the greater weight of the evidence” that the provider was grossly negligent or engaged in intentional misconduct. Providers will have no liability for COVID-19 related claims if the provider proves, by the greater weight of the evidence, any of the following affirmative defenses:</p> <ol style="list-style-type: none"> 1. Substantial compliance with government-issued health standards specifically relating to COVID-19 or other relevant standards relating to the preservation or prioritization of supplies, materials, or equipment. 2. Substantial compliance with government-issued health standards specific to infectious diseases in the absence of standards specifically applicable to COVID-19. 3. Substantial compliance with government-issued health standards relating to COVID-19 or other relevant standards was not possible due to the widespread shortages of necessary supplies, materials, equipment, or personnel. 4. Substantial compliance with any government-issued health standards relating to COVID-19 or other relevant standards if the applicable standards were in conflict. 5. Substantial compliance with government-issued health standards relating to COVID-19 or other relevant standards was not possible because there was insufficient time to implement the standards. 	<p>Applies to all claims not commenced prior to March 29, 2021.</p>
 <p>Georgia</p>	<p>On April 14, 2020, Governor Brian Kemp issued an executive order designating healthcare providers in Georgia as “emergency management workers.” This brought providers under the liability protections existing in Georgia Code Section O.C.G.A. 38-3-35 (2010). This section provides liability protections for employees, staff and contractors of healthcare institutions and facilities as actors of the State for declared states of emergency.</p> <p>On August 5, 2020, Governor Kemp signed legislation passed by the Georgia Legislature codifying his April 14, 2020 executive order declaring that during the COVID-19 state of emergency, employees, staff and contractors of healthcare institutions and medical facilities, as well as services provided by healthcare institutions and medical facilities, will be considered emergency management workers and activities. As emergency management workers and activities, these professionals and facilities are considered State actors and have State actor civil liability immunities under Georgia law.</p> <p>In May 2021, Governor Kemp signed into law HB 112, which extends the period of liability protections for the transmission, infection,</p>	<p>Effective March 14, 2020 and expires July 14, 2022.</p>

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<p>Georgia (cont.)</p>	<p>exposure or potential exposure of COVID-19 for healthcare providers and facilities by one year, from July 14, 2021 to July 14, 2022. These protections do not apply in cases of gross negligence, willful and wanton misconduct, reckless infliction of harm or intentional infliction of harm.</p>	
<p> Hawaii</p>	<p>By executive order, issued by Hawaii Governor David Ige, during the COVID-19 emergency, healthcare professionals, facilities, and volunteers who in good faith comply completely with all state and federal orders regarding the disaster emergency, are immune from civil liability for any death or injury to persons, or property damage alleged to have been caused by any act or omission when the healthcare professional was engaged in rendering assistance to the State by providing healthcare services in response to the COVID-19 outbreak, unless it is established that such death or injury was caused by willful misconduct, gross negligence, or recklessness of the healthcare professional.</p>	<p>Effective March 4, 2020 and continues through the duration of the order.</p>
<p> Illinois</p>	<p>Illinois Governor J. B. Pritzker extended the State's Good Samaritan liability protection by executive order to include compensated care related to COVID-19 by healthcare providers and facilities. These providers shall be immune from civil liability for any injury or death alleged to have been caused by any act or omission during which injury or death occurred at a time when the healthcare provider or facility was engaged in rendering assistance to the State by providing healthcare services in response to the COVID-19 outbreak unless it is established that such injury or death was caused by gross negligence or willful misconduct.</p> <p>The Governor issued a subsequent executive order providing additional conditions to the healthcare provider liability protections originally provided by executive order (detailed above). Under this executive order, when rendering assistance, healthcare providers and facilities must include a variety of measures such as increasing beds, care when transferring patients, and providing care consistent with current guidance issued by the Illinois Department of Public Health.</p>	<p>Effective March 9, 2020 (the date of the disaster declaration) and continues through the duration of the disaster proclamation. NOTE: Clarifications to the underlying order were issued on May 13, 2020 and continue through the duration of the disaster proclamation.</p>
<p> Indiana</p>	<p>Since 2006, Indiana has provided healthcare provider liability protection when providing services in response to a declared disaster. Governor Eric Holcomb, by executive order, declared a public health emergency and State disaster—activating the existing statute.</p> <p>In addition, the Indiana Legislature passed, and the Governor signed, legislation to provide individuals, associations, government entities, businesses, non-profits, schools, religious institutions, manufacturers of pandemic-related materials, and “any other organization or entity” immunity from COVID-19 civil liability lawsuits.</p>	<p>Emergency Disaster Statute: Effective March 6, 2020 and continues through the duration of the declared disaster. Temporary Civil Immunity: Effective March 1, 2020 through April 1, 2022.</p>

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 Iowa	<p>Iowa Governor Kim Reynolds signed into law comprehensive legislation that contained phantom damages reform and COVID-19 liability protections. The COVID-19 liability provisions are broad and cover healthcare providers, facilities, and devices, as well as general business immunities. The law provides that a healthcare provider shall not be liable for civil damages for causing or contributing, directly or indirectly, to the death or injury of an individual because of the healthcare provider's acts or omissions while providing or arranging health care in support of the State's response to COVID-19. The law does not relieve any person of liability for civil damages for any act or omission which constitutes recklessness or willful misconduct.</p>	<p>Effective January 1, 2020 and is not linked to the expiration of any executive order.</p> <p>The operative liability protection trigger is whether the care is provided to support the State's response to COVID-19.</p>
 Kansas	<p>Kansas enacted legislation codifying the liability protections found in Governor Laura Kelly's executive order. Under the statute, most healthcare providers and facilities will be immune from civil liability for damages or liability arising out of, or relating to, acts, omissions, or healthcare decisions occurring during any state of disaster emergency related to COVID-19. This liability protection will not apply to civil liability when it is established that the act, omission, or healthcare decision constituted gross negligence or willful, wanton, or reckless misconduct. Also, this liability protection will not apply to healthcare services unrelated to COVID-19 that have not been altered, delayed, or withheld because of the COVID-19 public health emergency.</p>	<p>Effective March 12, 2020 and applies to any cause of action occurring on or after that date extended to March 31, 2022.</p>
 Kentucky	<p>Kentucky provides civil liability protection to essential service providers including healthcare providers and facilities against COVID-19 claims during the declared COVID-19 emergency, except in cases of gross negligence, or wanton, willful, malicious, or intentional misconduct. It sets a one-year statute of limitations for any COVID-19 claims against an essential service provider.</p>	<p>With respect to essential service providers, the law applies retroactively starting March 6, 2020 until December 31, 2023.</p>
 Louisiana	<p>Louisiana Governor John Bel Edwards signed legislation that provides blanket immunities for exposure to COVID-19. With exceptions for gross negligence or wanton or reckless misconduct, the legislation provides liability protection for actual or alleged exposure to COVID-19; limits employee claims to claims determined to be compensable under the State's workers' compensation laws; and provides liability protection for the design, manufacture, distribution or use of personal protective equipment so long as the defendant was in substantial compliance with local, State, or federal safety procedures.</p> <p>Additionally, Louisiana enacted legislation that provides immunities for individuals, state and local governments and political subdivisions for exposure of others to COVID-19 during business operations. With exceptions for gross negligence or wanton or reckless misconduct, this legislation provides broad liability protection for actual or alleged exposure to COVID-19 so long as the defendant was in substantial compliance with local, State, or federal safety procedures. These immunities are retroactive to March 11, 2020.</p>	<p>Effective March 11, 2020 and continues through the duration of the State's declared public health emergency relating to COVID-19.</p>

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 Maryland	<p>Maryland's existing liability protection statutes apply under the current COVID-19 circumstances per Governor Larry Hogan's proclamation of a catastrophic health emergency. A "healthcare provider is immune from civil or criminal liability if the healthcare provider acts in good faith and under a catastrophic health emergency proclamation." Governor Hogan renewed the proclamation issued on June 3, 2020, and it specifically states that healthcare providers "who act in good faith under this catastrophic health emergency... have immunity provided by..." Maryland Code 14-3A-06.</p> <p>Additionally, in 2015, the Maryland Attorney General issued an opinion addressing the potential liability of hospitals for removing individuals from ventilators to provide the care to others. The opinion concluded that under the Act, the Governor would have the authority to develop criteria for the use of ventilators. Beginning on page 12 of the opinion, there is a discussion of a hospital's civil and criminal liability protection under the Act, and the opinion indicated that the "purpose of this immunity provision is to ensure that clinicians can comply with the governor's orders and act to save lives during a public health emergency without fear of liability," stating that evidence "shows that some clinicians will not participate fully, or at all, if they fear liability for their actions that result in unintentional harm to patients or even from foreseen harms that result from following appropriately vetted clinical guidelines for" mass critical care.</p>	<p>Effective March 5, 2020 and continues through the duration of the proclamation.</p>
 Massachusetts	<p>The Massachusetts Legislature passed, and Governor Charlie Baker signed, legislation to provide COVID-19-related liability protections for healthcare providers and facilities. The law defines damages as "injury or loss of property or personal injury or death, including economic or non-economic losses." Liability protection is not provided for gross negligence, recklessness, intent to harm or discriminate or actions related to consumer protections brought by the Attorney General or false claims actions.</p>	<p>Effective March 10, 2020 and continues through the duration of the emergency declaration.</p>
 Michigan	<p>The Michigan Legislature passed, and Governor Gretchen Whitmer signed into law, legislation to provide limited liability protections to healthcare providers from injury or death from acts or omissions related to COVID-19 services unless there was willful misconduct or gross negligence. This legislation replaces a series of previously issued and rescinded executive orders.</p>	<p>Effective on or after March 29, 2020 and before July 14, 2020.</p>
 Missouri	<p>Healthcare providers and facilities will not be liable in a COVID-19 liability action unless the plaintiff can prove recklessness or willful misconduct and the injury was caused by the reckless or willful misconduct. The legislation specifically states that elective procedures that are delayed for good cause shall not be considered reckless or willful misconduct. In addition, a COVID-19 medical liability action may not be commenced later than one year after the date of discovery of the alleged harm, unless tolled by fraud, intentional concealment, or the presence of a foreign body with no therapeutic or diagnostic purpose.</p>	<p>Effective August 28, 2021 and sunsets midnight on August 27, 2025.</p>

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 <p>Mississippi</p>	<p>By executive order, Mississippi Governor Tate Reeves provided healthcare professionals and facilities civil liability protections for any injury or death alleged to have been sustained because of the providers' or facilities' acts or omissions while providing healthcare 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 rendered the provider or facility unable to provide the level or manner of care that otherwise would have been required. These liability protections do not apply to acts or omissions that constitute a crime, fraud, malice, reckless disregard, willful misconduct, or would otherwise constitute a false claim under federal law.</p>	<p>Effective March 14, 2020 through one year beyond the end of the declared emergency.</p> <p>NOTE: Mississippi's enacted legislation provides the same protections as the executive order and those protections will not expire until one year after the end of the declared state of emergency.</p>
 <p>Montana</p>	<p>In 2021, the Montana Legislature passed, and Governor Greg Gianforte signed, SB 65 and HB 435. Under these laws, a healthcare provider is not liable for civil damages for causing or contributing, directly or indirectly, to death or injury while providing or arranging health care in support of the response to COVID-19 unless there is gross negligence, willful and wanton misconduct, or an intentional tort. This liability protection applies to: (1) screening, assessing, diagnosing, caring for, or treating individuals with a suspected or confirmed case of COVID-19; (2) prescribing, administering, or dispensing a pharmaceutical for off-label use to treat a patient with a suspected or confirmed case of COVID-19; (3) acts or omissions while providing health care to individuals with a condition unrelated to COVID-19 when those acts or omissions support the State's response to COVID-19, including: (a) delaying or canceling nonurgent or elective dental, medical, or surgical procedures, or altering the diagnosis or treatment; (b) diagnosing or treating patients outside the normal scope of the healthcare provider's license or practice; (c) using medical devices, equipment, or supplies outside of their normal use for the provision of health care, including using or modifying medical devices, equipment, or supplies for an unapproved use; (d) conducting tests or providing treatment to an individual outside the premises of a healthcare facility; (e) acts or omissions because of a lack of staffing, facilities, medical devices, equipment, supplies, or other resources attributable to COVID-19; or (f) relating to the use or nonuse of personal protective equipment.</p>	<p>Effective February 10, 2021 and terminates on January 31, 2031.</p>
 <p>Nevada</p>	<p>By executive order, Nevada Governor Steve Sisolak declared that all providers of medical services related to COVID-19 are performing services for emergency management and are therefore State actors with civil liability protection for all functions and activities undertaken in response to the state of emergency with exceptions for cases of willful misconduct, gross negligence, or bad faith.</p>	<p>Effective April 1, 2020 and continues through the duration of the declared state of public health emergency.</p>

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 <p>New Hampshire</p>	<p>The New Hampshire Attorney General issued an opinion that “health facilities, and their employees and volunteers, that engage in emergency management activities so long as the facility and its employee or volunteer was complying with or reasonably attempting to comply with the applicable state of emergency orders or rules” are protected from liability under New Hampshire Revised Statutes, Section 21-P:41. For those providing emergency management activities, this code section provides liability protection from lawsuits arising from death or injury to persons, or for damage to property, resulting from those activities. This statute also: (1) waives professional license requirements during the emergency; (2) includes paid and unpaid employees and volunteers in the definition of “emergency management worker;” (3) permits dental and nursing students to assist in an emergency under “general” supervision of a medical staff; and (4) entitles emergency workers who are not government employees to receive compensation from the State as if they were government employees.</p>	<p>Effective March 13, 2020 and continues through the duration of the declared emergency.</p>
 <p>New Jersey</p>	<p>New Jersey's Legislature passed, and Governor Phil Murphy signed into law, legislation providing civil and criminal liability protection to certain healthcare professionals and healthcare facilities during public health emergencies and to facilitate the issuance of certain temporary licenses and certifications during public health emergencies. Subsequent legislation was enacted changing the effective dates.</p>	<p>Civil and criminal protections are effective March 9, 2020 and continue through September 1, 2021. However, protections remain effective until January 1, 2022 for acts occurring prior to September 1, 2021. Protections remain effective for those engaged in COVID-19 vaccinations and testing.</p>
 <p>New York</p>	<p>The New York State Legislature codified Governor Andrew Cuomo's executive order providing liability protection for medical service providers during the COVID-19 emergency. The law protects facilities and healthcare professionals from any liability, civil or criminal, for any harm caused by an act or omission in connection with providing healthcare services in support of the State's response to the COVID-19 outbreak. Liability protection will not apply if the harm was caused by an act or omission constituting willful or intentional criminal misconduct, gross negligence, reckless misconduct, or intent to inflict harm, committed by the healthcare facility or healthcare professional, provided, however, that decisions resulting from a resource or staffing shortage should not be considered to be any of the foregoing.</p> <p>In 2021, the legislature subsequently repealed the liability protection statute, but it is not believed to be retroactive.</p>	<p>I. The comprehensive broad immunity law became effective March 7, 2020 through August 3, 2020.</p> <p>II. Limitations to the broad immunity law became effective on August 3 (when the Governor signed the legislation).</p> <p>The amended law provides liability protection only when providing care to COVID-19</p>



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<p>New York (cont.)</p>		<p>patients (confirmed or suspected).</p> <p>III. The statute was repealed effective April 6, 2021.</p>
 <p>North Carolina</p>	<p>The North Carolina State Legislature passed, and Governor Roy Cooper signed into law, a comprehensive bill related to the COVID-19 crisis that includes civil liability protection for any healthcare provider, facility, or entity that has legal responsibility for acts or omissions of a healthcare provider, 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 healthcare services, so long as the health services are: provided in good faith; during the COVID-19 state of emergency; and the arrangement or provision of services is impacted directly or indirectly in response to, or as a result of, the COVID-19 pandemic. These protections do not apply in cases of gross negligence, reckless misconduct, or intentional infliction of harm. Acts, omissions, or decisions resulting from a resource or staffing shortage are not gross negligence, reckless misconduct, or intentional infliction of harm.</p> <p>Additionally, by executive order, the Governor declared that all persons who are licensed, or otherwise authorized under his executive order, to perform professional skills in the field of health care are emergency management workers providing emergency services and therefore entitled to the State actor civil liability protection to the extent provided under state of emergency orders. This liability protection does not apply to willful misconduct, gross negligence, or bad faith.</p>	<p>Effective March 10, 2020 and continues through the duration of the declared public health state of emergency.</p>
 <p>North Dakota</p>	<p>The North Dakota Legislature passed, and Governor Doug Burgum signed into law, COVID-19 liability protection for healthcare providers and facilities retroactive to January 1, 2020 with no expiration date. A healthcare provider or healthcare facility is protected from civil liability for any act or omission in response to COVID-19 that causes or contributes, directly or indirectly, to the death or injury of an individual. The liability protection provided under this subsection includes death or injury resulting from: (1) Screening, assessing, diagnosing, caring for, triaging, or treating an individual with a suspected or confirmed case of COVID-19; (2) Prescribing, administering, or dispensing a pharmaceutical for off-label use to treat or prevent a suspected or confirmed case of COVID-19; (3) An act or healthcare omission while providing a healthcare service to an individual unrelated to COVID-19 if the act or omission supports the State's response to COVID-19, including: delaying or canceling a nonurgent or elective dental, medical, or surgical procedure; delaying the diagnosis of an individual; or altering the treatment of an individual; conducting a test or providing treatment to an individual outside the premises of a healthcare facility; an act or omission because of a lack of staff, facility, medical device, treatment, equipment, or other resource, attributable to COVID-19 which renders the healthcare provider or facility unable to provide the level or manner of care to an individual which otherwise would have been required in the absence of COVID-19; an act or omission relating to use or nonuse of personal protective equipment; and an act or omission relating to the administration, delivery, distribution, allocation, prioritization, or dispensing of scarce</p>	<p>Effective January 1, 2020 with no expiration date.</p>

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<p>North Dakota (cont.)</p>	<p>resources among individuals such as medical devices, treatment, and equipment. The immunity provided under subsection does not apply to an act or omission that constitutes willful and wanton misconduct, reckless infliction of harm, or intentional infliction of harm.</p>	
 <p>Ohio</p>	<p>Since 2019, Ohio has had an emergency disaster statute that states that a healthcare provider or emergency medical technician treatment that provides emergency medical services, first-aid, or other emergency professional care, including the provision of any medication or other medical product, as a result of a disaster, is not liable in damages to any person in a tort action for injury, death, or loss to person or property that allegedly arises from an act or omission of the healthcare provider or emergency medical technician in the healthcare provider's or emergency medical technician's provision of those services or that treatment or care if that act or omission does not constitute reckless disregard for the consequences so as to affect the life or health of the patient. This statute was activated by Governor Mike DeWine via his March 9, 2020 executive order.</p> <p>In addition, the Ohio Legislature passed, and Governor Mike DeWine signed, legislation to provide temporary qualified immunity for healthcare providers that prohibits bringing a civil action for injury, death, or loss to persons or property caused by exposure to or transmission or contraction of MERS-CoV, SARS-CoV, or SARS-CoV-2 unless there is reckless conduct or intentional, willful or wanton misconduct. The law prohibits class actions and clarifies that a government order, recommendation, or guideline does not create a duty of care.</p>	<p>Emergency Disaster Statute: Effective March 9, 2020 and continues through the duration of the federal, State, or political subdivision disaster declaration.</p> <p>Temporary Civil Immunity: Effective March 9, 2020 through September 30, 2021.</p>
 <p>Oklahoma</p>	<p>The Oklahoma State Legislature passed, and Governor Kevin Stitt signed into law, legislation providing limited civil liability protection for providers and facilities. This protection only applies where there is a diagnosis of suspected or actual COVID-19. The legislation specifies that liability protection will not apply to a healthcare action where there is no diagnosis of suspected or actual COVID-19.</p> <p>In addition to this legislation, the Oklahoma State Legislature passed, and the Governor signed into law, a broad liability protection bill that appears to cover hospitals and physician practices. It provides that no person, or agent of a person, who conducts business in Oklahoma shall be liable in a civil action for a claim of exposure or potential exposure to COVID-19, if the alleged act or omission was in compliance with or consistent with State or federal guidance applicable at the time. If two or more sources of guidance are applicable to the conduct or risk at the time of the alleged exposure, the person, or his or her agent, shall not be liable if the conduct was consistent with any applicable guidance. "Person" is defined as an individual, firm, partnership, corporation, or association.</p>	<p>Effective May 12, 2020 for claims filed on or after May 12, 2020 and continues through October 31, 2020 or through the end of the declared state of emergency, whichever is later.</p> <p>In addition, OK Senate Bill 1946 protections are effective for COVID-19-related claims filed on or after May 21, 2020. The law does not provide a sunset or expiration date.</p>

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 <p>Pennsylvania</p>	<p>Pennsylvania Governor Tom Wolf issued an executive order providing healthcare providers broad liability protection for COVID-19-related services. The order also provides other regulatory relief allowing for flexibility including licensure, and telehealth, and allowing facilities to relax scope of practice and supervision requirements for healthcare providers working in their facilities. The order specifically states that healthcare providers, facilities, and alternate care sites “shall be immune from civil liability and shall not be liable for the death of or any injury to a person or for loss of or damage to property as a result of the emergency services activity or disaster services activity described above, except in the cases of willful misconduct or gross negligence, to the fullest extent permitted by law. This grant of liability protection shall not extend to healthcare professionals rendering non-COVID-19 medical and health treatment or services to individuals.”</p>	<p>Effective March 6, 2020 and continues through the duration of the disaster emergency.</p>
 <p>Rhode Island</p>	<p>By executive order, Rhode Island Governor Gina Raimondo provided limited liability protection to healthcare individuals and organizations, including healthcare workers providing community-based health care, services at surge hospitals and services in existing hospitals, nursing facilities, and alternative nursing care sites providing health services during the COVID-19 pandemic to patients affected by COVID-19. COVID-19 healthcare workers and organizations were specifically included in the definition of a “disaster response worker” under existing State law, Section 30-15-15, that provides that almost all individuals who respond to a disaster are deemed a “disaster response worker” and “shall [not] be liable for the death of, or injury to, persons, or for damage to property, as a result of disaster response activity.” While the order contained several other parts that expired on May 8, 2020, it appears that the affirmation and interpretation that healthcare workers and organizations fall within the disaster response law remains in effect as long as there is a disaster/state of emergency.</p>	<p>Effective March 9, 2020 and continues through the duration of the disaster emergency.</p>
 <p>South Carolina</p>	<p>In April 2021, Governor Henry McMaster signed into law SB 147. This law provides liability immunity to covered entities and individuals that reasonably adhere to applicable public health guidance at the time that conduct giving rise to a COVID-19 claim occurs. This protection applies to both acts and omissions. The definition of “covered entity or individual” includes all healthcare facilities and healthcare practitioners. These protections do not apply if a claimant proves by clear and convincing evidence that the covered individual or entity caused the injury or damage by: (1) Grossly negligent, reckless, willful or intentional misconduct, or (2) A failure to make any attempt to adhere to public health guidance.</p>	<p>These protections are retroactive to causes of action that arose/arise between March 13, 2020 and June 30, 2021, or 180 days after the final state of emergency is lifted for COVID-19 in South Carolina, whichever is later.</p>
 <p>South Dakota</p>	<p>The South Dakota Legislature passed, and Governor Kristi Noem signed into law, legislation that provides that a healthcare provider is not liable for any damages for causing or contributing, directly or indirectly, to the death or injury of a person as a result of the healthcare provider's acts or omissions in response to COVID-19. This section applies to all of the following: (1) injury or death resulting from screening, assessing, diagnosing, caring for, or treating persons with a suspected or confirmed case of COVID-19; (2) prescribing, administering, or dispensing a pharmaceutical for off-label use to treat a patient with a suspected or confirmed case of COVID-19; and (3) acts or omissions while providing health care to persons unrelated to</p>	<p>Effective January 1, 2020 and to terminate on December 31, 2022.</p>

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<p>South Dakota (cont.)</p>	<p>COVID-19 if those acts or omissions support the State's response to COVID-19, including any of the following: (a) delaying or canceling nonurgent or elective dental, medical, or surgical procedures, or altering the diagnosis or treatment of a person in response to any federal or State statute, regulation, order, or public health guidance; (b) diagnosing or treating patients outside the normal scope of the healthcare provider's license or practice; (c) using medical devices, equipment, or supplies outside of their normal use for the provision of health care, including using or modifying medical devices, equipment, or supplies for an unapproved use; (d) conducting tests or providing treatment to any person outside the premises of a healthcare facility; (e) acts or omissions undertaken by a healthcare provider because of a lack of staffing, facilities, medical devices, equipment, supplies, or other resources attributable to COVID-19 that renders the healthcare provider unable to provide the level or manner of care to any person that otherwise would have been required in the absence of COVID-19; and (f) acts or omissions undertaken by a healthcare provider relating to the use or nonuse of personal protective equipment. This section does not relieve any person or healthcare provider of liability for civil damages for any act or omission that constitutes gross negligence, recklessness, or willful misconduct.</p>	
<p> Tennessee</p>	<p>Tennessee Governor Bill Lee issued an executive order providing limited liability protections to healthcare providers for any illness, injury, death, or damages related to the contraction of or suspected contraction of COVID-19 alleged to have been caused by acts or omissions within the limits of the provider's license, certification, registration, or authorization. The protections include but are not limited to acts or omissions resulting from a lack of resources attributable to or arising out of the provider's response to the COVID-19 pandemic. Protections do not include any act or omission caused by gross negligence or willful misconduct.</p> <p>In addition to the Governor's executive order, the State enacted SB 8002b, the "Tennessee COVID-19 Recovery Act" that supplants the executive order. The Act provides tort liability protections for claims related to COVID-19, as well as setting the standard of proof that a plaintiff must meet in such claims. Under the law, there is no claim against any person, businesses, corporations, or associations for loss, damage, injury or death arising from COVID-19 unless the plaintiff proves by clear and convincing evidence that the person proximately caused the injury or death by an act or omission constituting gross negligence or willful misconduct.</p>	<p>Effective July 1, 2020 and sunsets on July 1, 2022 but will continue to apply to any injury occurring before that date to which none of the listed exceptions apply.</p>
<p> Texas</p>	<p>On May 29, 2021, the Texas Legislature passed SB 6 (pending signature by the Governor). SB 6 provides that except in a case of reckless conduct or intentional, willful, or wanton misconduct, a physician, healthcare provider, or first responder is not liable for an injury, including economic and non-economic damages, or death arising from care, treatment, or failure to provide care or treatment relating to or impacted by a pandemic disease or a disaster declaration related to a pandemic disease if the physician, healthcare provider, or first responder proves by a preponderance of the evidence that:</p> <p>(1) a pandemic disease or disaster declaration related to a pandemic disease was a producing cause of the care, treatment, or failure to provide care or treatment that allegedly caused the injury or death; or</p>	<p>Effective March 13, 2020 and continuing.</p>

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<p>Texas (cont.)</p>	<p>(2) the individual who suffered injury or death was diagnosed or reasonably suspected to be infected with a pandemic disease at the time of the care, treatment, or failure to provide care or treatment.</p> <p>This law is retroactive for actions commenced on or after March 13, 2020, which have not reached final adjudication by the date of enactment of this legislation.</p>	
 <p>Utah</p>	<p>In 2020, Governor Gary Herbert signed into law SB 3002 providing limited liability protection for healthcare providers and facilities during the COVID-19 pandemic by placing them under the existing law covering a “major public health emergency.” Healthcare providers and facilities are immune from liability for “any harm resulting from any act or omission in the course of providing healthcare” if: (1) the health care is provided in good faith; (2) the care was provided “for the illness or condition that resulted in the declared major public health emergency;” (3) the act or omission was not the result of gross negligence, intentional or malicious misconduct. This liability protection applies even if: (a) the provider accepted payment for services, and (b) health care was provided not within the healthcare provider’s education, training, or experience if the services fell within those provided by a licensed healthcare provider and were provided in good faith during an urgent shortage of healthcare providers. Additionally, a healthcare provider is immune from liability if providing treatment under written recommendations by a federal government agency regarding the use of a qualified treatment for the illness or condition that was the cause of the major public health emergency, and the healthcare provider describes to the patient or patient’s representative the positive and negative outcomes of the qualified treatment. This discussion must be documented in the patient’s file and whether consent is given. This liability protection does not apply to gross negligence and intentional or malicious misconduct. If the federal government gives two or more written recommendations regarding the qualified treatment, the healthcare provider must follow the most current version.</p>	<p>Effective March 6, 2020 through the duration of the declared major public health emergency.</p>
 <p>Vermont</p>	<p>By executive order, Vermont Governor Phil Scott adopted a rule that interprets Vermont’s healthcare providers, facilities, and volunteers as emergency management service providers. This protects the listed entities under existing Vermont Law 20 V.S.A. Section 20 from civil liability for any death, injury, or loss resulting from COVID-19-related emergency management services or response activities, except in the case of willful misconduct or gross negligence. The covered services include cancelling or denying elective surgeries and procedures or routine care to respond to the COVID-19 outbreak.</p>	<p>Effective March 13, 2020 and continues through the duration of the order.</p>
 <p>Virginia</p>	<p>Virginia Governor Ralph Northam declared that existing state law provides healthcare providers with protection from civil liability in a state of emergency. Therefore, under Virginia law, in the absence of gross negligence or willful misconduct any healthcare provider who responds to the COVID-19 disaster shall be protected from civil liability for any injury or wrongful death arising from the delivery or withholding of health care, and any injury or wrongful death from the abandonment by such healthcare provider, where a state of emergency has been declared and a responding healthcare provider was unable to provide the requisite care to an existing patient or due to a lack of resources</p>	<p>Effective April 28, 2020 and continues through duration of the public health emergency.</p>

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<p>Virginia (cont.)</p>	<p>was unable to provide the level or manner of care that otherwise would have been required.</p>	
 Washington	<p>The Washington Legislature passed, and Governor Jay Inslee signed into law, additional requirements that a court must consider for a medical malpractice action during the COVID-19 pandemic. For cases arising during the COVID-19 pandemic from February 29, 2020 until the state of emergency is lifted, a court must consider whether the act or omission: (1) Was in good faith based upon guidance, direction, or recommendations published by the federal government, the State or local governments in response to the COVID-19 pandemic and applicable to such healthcare provider; or (2) Was due to a lack of resources including, but not limited to, available facility capacity, staff, and supplies, directly attributable to the COVID-19 pandemic. If any healthcare provider presents evidence of good faith or negligence due to a pandemic related shortage, the plaintiff is permitted to present rebuttal evidence if such evidence is admissible.</p>	<p>Effective February 29, 2020 and continues through the duration of the state of emergency.</p>
 West Virginia	<p>The West Virginia Legislature passed, and Governor Jim Justice signed into law, provisions that prohibit claims against healthcare providers, healthcare facilities, first responders, volunteers, and other entities for loss, damage, physical injury, or death arising from COVID-19, or from impacted care, excluding acts or omissions stemming from intentional conduct with actual malice.</p>	<p>Effective January 1, 2020, applying to any cause of action accruing on or after that date when responding to COVID-19 related federal, State, or local orders.</p>
 Wisconsin	<p>The Wisconsin State Legislature passed, and Governor Tony Evers signed into law, provisions that make healthcare providers immune from civil liability related to acts or omissions during the pandemic and immunity is extended to medical device manufacturers related to COVID-19, too.</p>	<p>Effective March 12, 2020 and continues 60 days beyond the termination of the declared public health emergency.</p>
 Wyoming	<p>The Wyoming Legislature passed, and Governor Mark Gordon signed into law, SB 17 that limits liability for acts or omissions by a healthcare facility or provider in arranging for or providing healthcare services to a claimant that resulted in injury to or death, or where the response to COVID-19 reasonably interfered with the arranging for or the providing of healthcare services for the claimant.</p> <p>In 2013, Wyoming enacted general liability protection in Section 35-4-114 that protects any healthcare provider or other person who in good faith follows the instructions of the State health officer in responding to a public health emergency. It provides that the healthcare provider is immune from any liability arising from complying with those instructions, except regarding acts or omissions constituting gross negligence, or willful or wanton misconduct. This liability protection applies to healthcare providers who are retired, who have an inactive license, or who are licensed in another state while performing as a volunteer during a declared public health emergency.</p>	<p>Effective March 14, 2020 and continues through the duration of the declared public health emergency.</p>

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