



April 3, 2020

The Honorable Ron Desantis  
Governor, State of Florida  
PL 05 Capitol  
400 South Monroe Street  
Tallahassee, Florida 32399

Re: Medical Professional Liability Protections

Dear Governor DeSantis:

In order to effectively respond during the COVID-19 public health emergency, we believe federal and local governments must work in concert with private and public health care providers in the community. The ability to treat patients during this time is a matter of vital state concern affecting the public health, safety and welfare of all citizens. To provide the best possible health outcomes for Floridians, we believe it is imperative that health care facilities and health care professionals are protected from liability that may result from treating individuals with COVID-19 under the conditions associated with this public health emergency. For purposes of this protection, any health care facility or health care professional should 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:

- 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;
- 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 facilities' 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
- The health care facility or health care professional is arranging for, or providing health care services, in good faith.

Any immunity granted should not apply if 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 providing health care services; however, acts, omissions, or decisions resulting from a resource or staffing shortage shall not be considered willful or intentional misconduct, gross negligence, reckless misconduct, or intentional infliction of harm.

Health care facilities should include skilled nursing facilities (nursing homes), hospitals, or other facilities licensed or authorized to provide health care services for any individual in the state of Florida under chapters 395, 400, 429, and 483. Also included should be any site providing health care services established for the purposes of responding to the COVID-19 outbreak pursuant to any existing or future federal or state orders, declarations or waivers.

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*Representing the Florida Long Term Care Community*

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Health care professionals should include any individual whether acting as an agent, volunteer, contractor, employee or otherwise who is:

- Licensed or otherwise authorized through the Florida Department of Health;
- 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;
- Licensed or certified to provide emergency medical services in the state;
- A home care worker under chapter 400;
- Providing health care services within the scope of authority permitted by a COVID-19 emergency rule or waiver; or
- 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.

Governor DeSantis, we ask you to extend sovereign immunity to health care professionals and health care facilities engaged in responding to the COVID-19 outbreak. This would provide the necessary liability protection to health care professionals and health care facilities to provide services for any individual in the state during the emergency rule without fear of reprisal for providing care to their patients during this difficult time.

Sincerely,

A handwritten signature in cursive script that reads "J. Emmett Reed".

J. Emmett Reed, CAE  
FHCA Executive Director