

# COVID-19: Mississippi Litigation Update | July 8, 2020

March 17, 2020

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## Mississippi Back-to-Business Liability Assurance and Health Care Emergency Response Liability Protection Act Signed Into Law

On July 8, 2020, Mississippi Governor Tate Reeves signed into law Senate Bill No. 3049, the "Mississippi Back-to-Business Liability Assurance and Health Care Emergency Response Liability Protection Act." This act will be in effect from March 14, 2020, and will expire one (1) year after the end of the COVID-19 state of emergency.

### Alleged or Potential COVID-19 Exposure

- A person, or agent of that person, who attempts in good faith to follow applicable public health shall be immune from suit for civil damages for any injuries or death resulting from or related to actual or alleged exposure or potential exposure to COVID-19 in the course of or through the performance or provision of its functions or services.
- A person, or agent of that person, shall be immune from suit for civil damages for injuries or death resulting from or related to actual or alleged exposure or potential exposure to COVID-19 in the course of or through the performance or provision of its functions or services in the time before applicable public health guidance was available.
- An owner, lessee, occupant or any other person in control of a premises, who attempts, in good faith, to follow applicable public health guidance and directly or indirectly invites or permits any person onto a premises shall be immune from suit for civil damages for any injuries or death resulting from or related to actual or alleged exposure or potential exposure to COVID-19.

### Health Care Professionals and Facilities

- Any health care professional or health care facility shall be immune from suit for any injury or death directly or indirectly sustained because of the health care professional's or health care facility's acts or omissions while providing health care services related to a COVID-19 state of emergency. The immunity takes effect when the COVID-19 state of emergency is declared, applies to any health care services performed during the COVID-19 state of emergency, including any period of renewal or extension, and terminates one (1) year after the end of the COVID-19 state of emergency.
- The immunity includes, but is not limited to:
  - Injury or death resulting from screening, assessing, diagnosing or treating persons in relation to the COVID-19 state of emergency or the medical conditions causing the COVID-19 state of emergency; or
  - Acts or omissions while providing health care services to persons unrelated to the COVID-19 state of emergency when those acts

or omissions were intended to support the state's response to the COVID-19 state of emergency, including, but not limited to, the following:

- Delaying or cancelling nonurgent or elective dental, medical or surgical procedures, or altering the diagnosing or treatment of any person in response to an order, directive or guideline issued by the federal, state or a local government;
- Diagnosing or treating patients outside the normal scope of the health care professional's license or practice;
- Using equipment or supplies outside of the product's normal use for medical practice and the provision of health care services, including using or modifying a medical device for an unapproved use or indication;
- Prescribing, administering or dispensing a pharmaceutical for off-label use to treat a patient in relation to a COVID-19 state of emergency;
- Conducting tests or providing treatment to any person outside of the premises of standard health care facilities; or
- Acts or omissions undertaken by a health care professional or health care facility because of a lack of staffing, facilities, equipment, supplies or other resources attributable to the COVID-19 state of emergency that make it impractical for the health care professional or health care facility to provide the level or manner of care to any person that otherwise would have been required in the absence of the COVID-19 state of emergency.

### **Product Liability**

- A person who designs, manufactures, labels, sells, distributes or donates a qualified product in response to COVID-19 shall be immune from suit for civil damages for any injuries resulting from or related to actual or alleged exposure or potential exposure to COVID-19 caused by a qualified product.
- A person who designs, manufactures, labels, sells, distributes or donates disinfecting or cleaning supplies or personal protective equipment in response to COVID-19 outside the ordinary course of the person's business shall be immune from suit for civil damages for any injuries resulting from or related to actual or alleged exposure or potential exposure to COVID-19 caused by the disinfecting or cleaning supplies or personal protective equipment.

The immunities provided in this act shall not apply where the plaintiff shows, by clear and convincing evidence, that a defendant, or any employee or agent thereof, acted with actual malice or willful, intentional misconduct.

A copy of the act can be found [here](#).

Questions? [Contact one of MGC's litigation attorneys.](#)

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