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New Jersey and Pennsylvania Health Care Updates

SUMMARY

While we would normally be fixated on April 15th being “tax day”, the COVID-19 pandemic is appropriately the focus of all our collective energies and appreciation for the health care providers who are treating those who become ill. In recent days, New Jersey enacted a law providing legal immunity for providers involved in treating COVID-19 patients, and Pennsylvania created an emergency loan program for its hospitals to help ease cash flow issues.

Providers need to regularly monitor legislative and regulatory changes at the state and federal levels to ensure they are aware of new developments that may provide needed assistance during this pandemic.

New Jersey Enacts New Law Granting Health Care Professional Immunity

On April 14, 2020, Governor Murphy signed into law legislation granting health care professionals and facilities immunity from civil and criminal liability for potential malpractice claims relating to treatment for COVID-19 patients. The statute also authorizes temporary reinstatement and recertification of some professional certifications.

Under the new law, a health care professional is not liable for civil damages for injury or death alleged to have been sustained as a result of an act or omission by the health care professional in the course of providing medical services in support of New Jersey’s response to the outbreak of COVID-19 during the public health emergency declared by the Governor in Executive Order 103. In addition, any health care facility or system that owns more than one facility will not be liable for civil damages alleged to have been sustained by the actions of an employee or volunteer covered by this new statute.

The extension of immunity also includes any act or omission undertaken in good faith by a health care professional, health care facility, or health care system to support efforts to treat COVID-19 patients and to prevent the spread of the virus, including engaging in telemedicine or telehealth, and diagnosing or treating patients outside the normal scope of the health care professional’s license or practice.

Finally, the new statute authorizes the New Jersey Commissioner of Health to issue a provisional certification to any emergency medical technician (EMT) whose certification has expired, issue a provisional certification to any paramedic whose professional certification expired within the past five (5) years, temporarily reactivate the certification of a paramedic that was placed on inactive status within the past five (5) years, and grant temporary reciprocity to certain paramedics licensed in another state. A provisional certification, temporary reactivation, or grant of reciprocity issued under this law will be valid for six (6) months unless otherwise determined by the commissioner.

This new law takes effect immediately and the immunity provisions are retroactive to March 9, 2020.

Pennsylvania Creates Loan Program for Hospitals

On April 10, Pennsylvania Governor Wolf announced a \$450 million loan program titled the Hospital Emergency Loan Program (HELP) to provide short-term financial relief to hospitals. The loan package is available to hospitals to provide immediate financial support for working capital to ensure these facilities can maintain personnel, personal protective equipment, and other supplies.

Pennsylvania hospitals licensed by the Pennsylvania Department of Health under the Health Care Facilities Act of 1979 that are eligible to receive federal grant funding through the federal Coronavirus Aid, Relief, and Economic Security Act (CARES) Act are eligible for HELP. The maximum loan amount is \$10 million per hospital at an interest rate of 0.5 percent. Applications are available on the Department of Community and Economic Development's website.

COVID-19 is creating enormous and unprecedented challenges for health care providers. State and federal government programs are being updated on almost a daily basis to provide support and assistance to providers who are on the front lines fighting this pandemic. Saul Ewing Arnstein & Lehr attorneys regularly counsel providers in regulatory matters and are available to assist providers in learning more about emerging opportunities as a result of the COVID-19 pandemic. Please feel free to contact the authors if you have questions about these new Pennsylvania and New Jersey initiatives or other recent federal and state level changes and their potential benefits.

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