

COVID-19 Emergency Legislation in New Jersey Impacts Healthcare Providers

On April 14, 2020, New Jersey Governor Phil Murphy signed a series of emergency bills into law. Two of the bills directly impact healthcare providers in New Jersey and legislate emergency measures that had previously been implemented by Governor Murphy via Executive Order 112.

Bill A-3901 provides the Director of Consumer Affairs, during a declared state of emergency, with the authority to reactivate a license, certificate of registration or certification of healthcare professionals on an expedited basis if the individual was in good standing at the time of their retirement from active practice or were placed on inactive status, within the last three years, or such other timeframe as the Director may specify.

Moreover, pursuant to the bill, the Director and the applicable Boards have the authority to waive certain requirements normally required in the licensing process, to set the duration and terms of any license, certificate of registration or certification granted pursuant to the bill, and to require any individual to practice the profession or occupation in this State, as deemed necessary to protect the public health, safety and welfare.

Bill A-3910 provides healthcare professionals with immunity from liability for civil damages for injuries or death alleged to have been sustained as a result of an act or omission by the healthcare professional in the course of providing medical services in support of the State's response to the outbreak of coronavirus disease during the public health emergency and state of emergency declared by Governor Murphy. Moreover, a healthcare facility or system that owns or operates more than one healthcare facility is also immune if its agent, officer, employee, servant, representative or volunteer is also immune from liability pursuant to this bill. Immunity also extends to acts or omissions undertaken in good faith by a healthcare professional, facility or system to support efforts to treat COVID-19 patients and to prevent the spread of COVID-19 during the public health emergency and state of emergency. This immunity includes, but is not limited to, engaging in telehealth and telemedicine and diagnosing or treating patients outside the normal scope of the practitioner's license or practice. The immunity afforded by this bill, however, does not apply to acts or omissions constituting a crime, actual fraud, actual malice, gross negligence, recklessness, or willful misconduct.

A-3910 also provides immunity from criminal and civil liability for damages for injury or death sustained in connection with the allocation of mechanical ventilators or other scarce medical resources, if the healthcare facility or system adopts and adheres to a scarce resource allocation policy that at a minimum incorporates the core principles identified by the Commissioner of Health. Additionally, the bill affords the Director of the Division of Consumer Affairs with the authority during a state of emergency or public health emergency to temporarily suspend or modify any rule concerning the practice of any profession or occupation for which licenses, certificates, registrations or certifications are issued by the division or any board under Title 45. And finally, during the pendency of the state of emergency or public health emergency, the bill authorizes the Commissioner of Health to temporarily reinstate and reactivate EMTs and paramedics along with allowing for temporary reciprocity for out-of-state EMTs and paramedics.

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