

OHIO COVID-19 LEGAL IMMUNITY LEGISLATION SIGNED INTO LAW

SEPTEMBER 2020

Against the backdrop of a COVID-19 pandemic with no end in sight, Ohio Governor Mike DeWine signed the Good Samaritan Expansion Bill into law on September 14, 2020. Formally entitled House Bill 606, the new law seeks to allay concerns of a rash of lawsuits, including class actions, against individuals and businesses claiming negligence in relation to the spread of the virus. The law provides for temporary legal immunity from legal actions alleging negligence in connection with exposures to the virus that occurred or will occur between March 9, 2020 and September 30, 2021. For health care providers in particular, the law provides much-needed relief, given that the standard of care for both treating COVID-19 infections as well as guarding against its spread has continued to change and evolve. Although H.B. 606 is retroactive in nature, it does not take effect until December 13, 2020, leaving open the possibility of legal challenges to its passage.

Specifically, H.B. 606 provides for (1) temporary immunity for health care providers from both tort actions and in professional disciplinary actions, if those actions arise from a disaster or emergency, inclusive of an epidemic, and (2) temporary immunity from general tort actions for any person, including a school, business, or religious entity, if the injury is based in part on exposure to COVID-19, unless the defendant's action was reckless or intentional. Immunity is "temporary" in that it applies only to conduct occurring between March 9, 2020 and September 30, 2021. This shield applies to all tort actions alleging negligence, including actions for wrongful death, but does not extend to lawsuits alleging intentional or reckless conduct on the part of the defendant. And, importantly, even if intentional or negligent conduct is alleged in the complaint, these lawsuits still cannot be brought as class actions.

The new law contains special treatment for health care providers in several key areas. Although immunity from general liability applies only to COVID-19-related lawsuits, immunity for health care providers extends to circumstances related to any disaster or emergency. The definition of "health care provider" itself is broad: H.B. 606 covers not only physicians and nurses, but uses an expansive definition that covers a multitude of professions and care settings, from athletic trainers to dental hygienists, from federally qualified health centers to hospice services. The law also expressly states that immunity applies not only to cases alleging exposure to COVID-19 itself, but also extends to cases where elective procedures were delayed or cancelled because of the response to the virus (such as actions alleging a delay in diagnosis or treatment of a non-COVID-19 condition). Finally, in addition to the reckless or willful conduct exceptions mentioned above, immunity also will not apply if the provider acted beyond the scope of his or her training unless done "in good faith and in response to a lack of resources caused by a disaster or emergency," and immunity from professional disciplinary action will not apply if the provider's actions constitute "gross negligence."

Although the threat of legal challenges remains, H.B. 606 appears to have alleviated much of the legal uncertainty faced by health care providers, and businesses in general, in Ohio.

To review the Act, [click here](#). To review our previous coverage on this legislation, see our [August Client Alert here](#).

ADDITIONAL INFORMATION

For more information, please contact:

- [Raymond Krncevic](mailto:raymond.krncevic@tuckerellis.com) | 216.696.5498 | raymond.krncevic@tuckerellis.com
- [Erica M. James](mailto:erica.james@tuckerellis.com) | 216.696.4661 | erica.james@tuckerellis.com

- [Edward E. Taber](mailto:edward.taber@tuckerellis.com) | 216.696.2365 | edward.taber@tuckerellis.com
- [Ernest W. Auciello, Jr.](mailto:ernest.auciello@tuckerellis.com) | 216.696.4780 | ernest.auciello@tuckerellis.com
- [Victoria L. Vance](mailto:victoria.vance@tuckerellis.com) | 216.696.3360 | victoria.vance@tuckerellis.com
- [Jane F. Warner](mailto:jane.warner@tuckerellis.com) | 216.696.4559 | jane.warner@tuckerellis.com

This Client Alert has been prepared by Tucker Ellis LLP for the use of our clients. Although prepared by professionals, it should not be used as a substitute for legal counseling in specific situations. Readers should not act upon the information contained herein without professional guidance.

©2020 Tucker Ellis LLP. All rights reserved.