



April 10, 2020

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

Re: Health Care Provider Protections

Dear Governor DeSantis,

The COVID-19 public health emergency is unprecedented on many fronts. The emergency threatens the life and health of persons around the world and has severely disrupted commerce and everyday activities. The situation is very fluid and federal and state guidance is changing almost on a daily basis with instructions on how to provide appropriate care for those in need. Significant legal challenges follow such catastrophic disasters and work to impede the provision of public and private health care services during the disaster response. LeadingAge Florida is asking for the level of legal immunity necessary to give health care providers the confidence to take all possible measures under these extraordinary conditions.

Given Florida's population, the state needs to avoid potentially crippling impacts to the health care system once the emergency passes. Health care providers and health care professionals need the flexibility to provide creative and innovative services to save lives without the fear of damaging their organization's ability to survive after the emergency is over. Providing crisis care is a dynamic process that entails difficult decisions and a constant assessment of specific courses of action. Virtually any patient, resident, or family member may feel aggrieved under these exigent circumstances that are outside of the normal health care environment; so, the potential is increased for legal action resulting from perceived limitations of the health care provided during the crisis. Providing limited legal liability protections for good faith actions taken during the public health emergency will offer needed assurances and incentives for full participation in the emergency response efforts.

In addition, other states<sup>1</sup> have already enacted policies through executive order or legislation that provide blanket or limited immunity from liability for health care activities taken in mitigation of the COVID-19 pandemic. Florida's businesses and practitioners should not be penalized and placed in a position detrimental to fair competition with similar businesses in other states.

---

<sup>1</sup> See New York EO 202.10, eff. 3-23-20; Michigan EO 2020-30, eff. 3-29-20; Kentucky Senate Bill 150, eff. 3-30-20; Illinois EO 2020-19, eff. 4-1-20; Indiana Code 34-30-13.5; Louisiana Statutes, Section 29.771.

The members of LeadingAge Florida join with the position of our partners at the Florida Health Care Association. We are asking that an order be executed that provides for immunity from liability, civil or criminal, for any harm or damages alleged to have been sustained as a result of an act or omission by a health care facility or health care professional 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 order, rule, guidance, advisory, 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 facility's or health care professional's decisions or activities in response to, or as a result of, the COVID-19 pandemic 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.

The additional provisions in the Association's April 3, 2020 letter concerning specifics of the immunity granted in relation to intentional or bad acts, resource or staffing issues, the entities constituting a health care facility, and the individuals comprising health care professionals are also adopted by LeadingAge Florida.

Another consideration for inclusion in any order is the starting and ending date of the immunity granted. Section 252.515(4), Florida Statutes, provides guidance. The immunity should cover the time period of the public health emergency or the declaration of the state of emergency and up to 6 months after any continuation or renewal of the emergency.

Governor DeSantis, the LeadingAge Florida members are fully committed to a public-private partnership to overcome the devastating effects of the COVID-19 public health emergency. We have the privilege of caring for the needs of many great Floridians in our nursing homes, assisted living facilities, continuing care retirement communities, and affordable housing communities and we ask for your help in preserving these businesses, both for the staff and the residents.

Sincerely,



Steve Bahmer  
President/CEO

cc: Joseph W. Jacquot, General Counsel to the Executive Office of the Governor