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Client Alert: What Physicians Should Know About the Coronavirus in Florida: A Legal Perspective

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On Monday, March 2, 2020, Governor Ron DeSantis directed Florida State Health Officer and Surgeon General, Scott Rivkees, M.D., to declare a public health emergency due to two confirmed cases in Florida of Coronavirus Disease ("COVID-19"). According to Governor DeSantis' Executive Order Number 20-51, the State Health Officer is directed to use his judgment during the duration of this public emergency and to take any necessary action to protect the public health. The State Health Officer will follow the guidelines established by the Center for Disease Control and Prevention ("CDC") to control the spread of COVID-19 and will educate the public on prevention. The Florida Department of Health is the lead state agency charged with coordinating emergency response activities with state and local governments.

Such activities include monitoring persons under investigation ("PUI"), as defined by the CDC, for COVID-19 for at least 14 days, which includes risk assessments and temperature checks. Isolation or quarantine of these individuals may also be implemented for 14 days or until a person tests negative for COVID-19 (Fla. Stat. § 381.00315). This isolation or quarantine may be enforced by Florida Law Enforcement. Id.

Importantly, all physicians, hospitals, and laboratories that diagnose or suspect the existence of COVID-19 must immediately report the same to the Florida Department of Health (see Fla. Stat. § 381.0031). This report remains confidential and does not require the authorization of the patient for reporting. The Department of Health may also review and copy patient records related to reported cases. A specific exception to HIPAA exists that allows these health care providers to report the suspected cases of COVID-19 to the Florida Department of Health without the patient's authorization (see 45 C.F.R. § 164.512(b)).

Also, during a public health emergency, if more providers are needed, the State Health Officer can temporarily reactivate inactive licenses of physicians, nurses, or paramedics if their prior active licenses were clear. Florida physicians should familiarize themselves with the Florida reporting law and the mandates and guidance of the Florida Department of Health to assist in the orderly management of COVID-19 in Florida.

