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APRIL 16, 2020 | PUBLICATION

Client Alert: North Carolina Executive Order Expands Pool of Health Care Workers During State of Emergency and Limits Liability for Health Care Providers

INDUSTRY SECTOR

Health Care

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On April 8, 2020, Governor Cooper signed an Executive Order to expand the pool of health care workers in order to attack COVID-19. The Order gives authority to the state's health care licensing boards to temporarily waive or modify certain legal or regulatory constraints on the state's health care workforce. In response to the Order, the North Carolina Medical Board (NCMB) held a special meeting on April 9, 2020 and approved additional actions to address COVID-19.

Several of NCMB's approved actions are summarized as follows: (1) extending the expiration date of emergency temporary licenses to 30 days after the state of emergency is lifted; (2) allowing new physician assistant graduates who have not taken the required testing to be issued a temporary license; and (3) approving several provisions for nurse practitioners (NPs) along with the North Carolina Board of Nursing (NCBON). The provisions for NPs include: (a) restricting the prescribing of chloroquine, azithromycin, and other medications to ensure that these drugs are available to patients who need them; (b) permitting NPs who have inactivated professional licenses within the last two years to quickly reinstate; (c) allowing recent NP graduates who have not taken the required testing to be issued a temporary license; and (d) allowing NPs to be temporarily reassigned to a new practice area within the same facility to meet a critical need without formally notifying NCBON of the new practice setting.

For more detailed information on the NCMB's actions in response to Governor Cooper's April 8, 2020 Executive Order, please see the link below.

https://www.ncmedboard.org/resources-information/professional-resources/publications/forum-newsletter/n

otice/ncmb-takes-additional-actions-to-assist-with-covid-19

For potential health care workers concerned about lack of malpractice insurance or potential liability if they were to serve North Carolinians during this pandemic, the Executive Order seeks to ensure that such health care workers will be provided immunity under section 166A-190.60 of the North Carolina General Statutes. The Order affirms that the North Carolina statute provides immunity from liability for "emergency management workers," except in cases of willful misconduct, gross negligence, or bad faith. Under the statute, "emergency management workers" include persons performing emergency services pursuant to a request of the state government. The Order warrants that ***any*** persons providing health care services to treat COVID-19 will be treated as "emergency management workers" acting at the request of the state government. Therefore, the Governor intends that all such workers should be insulated from civil liability to the maximum extent possible authorized under section 166A-19.60, except in cases of willful misconduct, gross negligence, or bad faith.

For more details and to read the exact language of the Order, please click on the link below and review Section 3, sub-section C of Governor Cooper's April 8, 2020 Executive Order entitled "Limitation of Liability Under N.C. Gen. Stat. §166A-19.60."

https://files.nc.gov/governor/documents/files/EO130-Meeting-North-Carolinas-Health-and-Human-Services-Needs.pdf

Please do not hesitate to contact Timaura E. Barfield at tbarfield@shumaker.com or 704.945.2960, or Scott M. Stevenson at sstevenson@shumaker.com or 704.945.2180, if you have any questions.

For the most up-to-date legal and legislative information related to the coronavirus pandemic, please visit our Shumaker COVID-19 Client Resource Center at shumaker.com. We have also established a 24/7 Legal & Legislative Helpline at 1.800.427.1493 monitored by Shumaker lawyers around the clock.

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