STATE OF ILLINOIS

EXECUTIVE DEPARTMENT

SPRINGFIELD, ILLINOIS

FILED
INDEX DEPARTMENT
APR 9 2020
IN THE OFFICE OF
SECRETARY OF STATE

April 1, 2020 Executive Order 2020-19

EXECUTIVE ORDER IN RESPONSE TO COVID-19
(COVID-19 EXECUTIVE ORDER NO. 17)

WHEREAS, I, JB Pritzker, Governor of Illinois, declared all counties in the State of Illinois as a disaster area on March 9, 2020 (First Gubernatorial Disaster Proclamation) in response to the outbreak of Coronavirus Disease 2019 (COVID-19); and,

WHEREAS, I again declared all counties in the State of Illinois as a disaster area on April 1, 2020 (the Second Gubernatorial Disaster Proclamation, and, together with the First Gubernatorial Disaster Proclamation, the Gubernatorial Disaster Proclamations) in response to the exponential spread of COVID-19; and,

WHEREAS, in a short period of time, COVID-19 has rapidly spread throughout Illinois, necessitating updated and more stringent guidance from federal, state, and local public health officials; and,

WHEREAS, for the preservation of public health and safety throughout the entire State of Illinois, and to ensure that our healthcare delivery system is capable of serving those who are sick, I find it necessary to take additional measures consistent with public health guidance; and,

WHEREAS, ensuring the State of Illinois has adequate bed capacity, supplies, and providers to treat patients afflicted with COVID-19, as well as patients afflicted with other maladies, is of critical importance; and,

WHEREAS, eliminating obstacles or barriers to the provision of supplies and health care services is necessary to ensure the Illinois healthcare system has adequate capacity to provide care to all who need it; and,

WHEREAS, the Illinois Department of Financial and Professional Regulation and the Illinois Department of Public Health (DPH) have taken measures, and continue to take measures, to enable inactive and out-of-state health care workers to come back to work in the State of Illinois through proclamations, emergency rules and variances; and,

WHEREAS, DPH has taken measures, and continues to take measures, to enable hospitals to increase bed capacity and provide levels of care necessary to respond to the COVID-19 outbreak; and,

WHEREAS, Section 6(c)(1) of the Illinois Emergency Management Agency Act (IEMA Act), 20 ILCS 3305/6, provides that the Governor is authorized to "make, amend, and rescind all lawful necessary orders, rules, and regulations to carry out the provisions of this Act within the limits of the authority conferred upon the Governor"; and,

WHEREAS, Section 15 of the IEMA Act, 20 ILCS 3305/15, provides that "Neither the State, any political subdivision of the State, nor, except in cases of gross negligence or willful misconduct, the Governor, the Director, the Principal Executive Officer of a political

subdivision, or the agents, employees, or representatives of any of them, engaged in any emergency management response or recovery activities, while complying with or attempting to comply with this Act or any rule or regulations promulgated pursuant to this Act is liable for the death of or any injury to persons, or damage to property, as a result of such activity"; and,

WHEREAS, Section 21(b) of the IEMA Act, 20 ILCS 3305/21, provides that "Any private person, firm or corporation and employees and agents of such person, firm or corporation in the performance of a contract with, and under the direction of, the State, or any political subdivision of the State under the provisions of this Act shall not be civilly liable for causing the death of, or injury to, any person or damage to any property except in the event of willful misconduct"; and,

WHEREAS, Section 21(c) of the IEMA Act, 20 ILCS 3305/21, provides that "Any private person, firm or corporation, and any employee or agent of such person, firm or corporation, who renders assistance or advice at the request of the State, or any political subdivision of the State under this Act during an actual or impending disaster, shall not be civilly liable for causing the death of, or injury to, any person or damage to any property except in the event of willful misconduct"; and,

WHEREAS, Section 3.150(a) of the Emergency Medical Services (EMS) Systems Act, 210 ILCS 50/3.150, provides that persons "who in good faith provide[] emergency or non-emergency medical services during a Department [of Public Health] approved training course, in the normal course of conducting their duties, or in an emergency, shall not be civilly liable as a result of their acts or omissions in providing such services unless such acts or omissions, including the bypassing of nearby hospitals or medical facilities in accordance with the protocols developed pursuant to this Act, constitute willful and wanton misconduct"; and,

WHEREAS, the Good Samaritan Act, 745 ILCS 49, provides that "the generous and compassionate acts of its citizens," specifically health care professionals, "who volunteer their time and talents to help others" should be exempt from civil liability unless such acts demonstrate willful or wanton misconduct;

THEREFORE, by the powers vested in me as the Governor of the State of Illinois, and pursuant to Sections 7(1), 7(2), 7(3), 7(12), 15, and 21 of the IEMA Act, 20 ILCS 3305, I hereby order the following, effective April 1, 2020 and for the remainder of the duration of the Gubernatorial Disaster Proclamations, which currently extends through April 30, 2020:

Section 1. For purposes of this Executive Order, the following terms are defined as set forth below:

(a) "Health Care Facilities" means:

i. Facilities licensed, certified, or approved by any State agency and covered by the following: 77 Ill. Admin. Section 1130.215(a)-(f); University of Illinois Hospital Act, 110 ILCS 330; Alternative Health Care Delivery Act, 210 ILCS 3/35(2)-(4); Emergency Medical Services (EMS) Systems Act, 210 ILCS 50; or Department of Veterans' Affairs Act, 20 ILCS 2805;

ii. State-operated Developmental Centers certified by the federal Centers for Medicare and Medicaid Services and licensed State-operated Mental Health Centers created pursuant to the Mental Health and Developmental Disabilities Administrative Act, 20 ILCS 1705/4;

iii. Licensed community-integrated living arrangements as defined by the Community-Integrated Living Arrangements Licensing and Certification Act, 210 ILCS 135/2;

iv. Licensed Community Mental Health Centers as defined in the Community Services Act, 405 ILCS 30;

v. Federally qualified health centers under the Social Security Act, 42 U.S.C. § 1396d(l)(2)(B); and

vi. Any government-operated site providing health care services established for the purpose of responding to the COVID-19 outbreak.

"Health Care Facility" is the singular form of the plural "Health Care Facilities."

(b) "Health Care Professional" means all licensed or certified health care or emergency medical services workers who (i) are providing health care services at a Health Care Facility in response to the COVID-19 outbreak and are authorized to do so; or (ii) are working under the direction of the Illinois Emergency Management Agency (IEMA) or DPH in response to the Gubernatorial Disaster Proclamations.

(c) "Health Care Volunteer" means all volunteers or medical or nursing students who do not have licensure who (i) are providing services, assistance, or support at a Health Care Facility in response to the COVID-19 outbreak and are authorized to do so; or (ii) are working under the direction of IEMA or DPH in response to the Gubernatorial Disaster Proclamations.

Section 2. Pursuant to Sections 15 and 21(b)-(c) of the IEMA Act, 20 ILCS 3305/15 and 21(b)-(c) and the Good Samaritan Act, 745 ILCS 49, I direct all Health Care Facilities, Health Care Professionals, and Health Care Volunteers, as defined in Section 1 of this Executive Order, to render assistance in support of the State's response to the disaster recognized by the Gubernatorial Disaster Proclamations (COVID-19 outbreak). For Health Care Facilities, "rendering assistance" in support of the State's response must include cancelling or postponing elective surgeries and procedures, as defined in DPH's COVID-19 – Elective Surgical Procedure Guidance, if elective surgeries or procedures are performed at the Health Care Facility. In addition, for Health Care Facilities, "rendering assistance" in support of the State's response must include measures such as increasing the number of beds, preserving personal protective equipment, or taking necessary steps to prepare to treat patients with COVID-19. For Health Care Professionals, "rendering assistance" in support of the State's response means providing health care services at a Health Care Facility in response to the COVID-19 outbreak, or working under the direction of IEMA or DPH in response to the Gubernatorial Disaster Proclamations. For Health Care Volunteers, "rendering assistance" in support of the State's response means providing services, assistance, or support at a Health Care Facility in response to the COVID-19 outbreak, or working under the direction of IEMA or DPH in response to the Gubernatorial Disaster Proclamations.

Section 3. Pursuant to Sections 15 and 21(b)-(c) of the IEMA Act, 20 ILCS 3305/15 and 21(b)-(c), I direct that during the pendency of the Gubernatorial Disaster Proclamation, Health Care Facilities, as defined in Section 1 of this Executive Order, shall be immune from civil liability for any injury or death alleged to have been caused by any act or omission by the Health Care Facility, which injury or death occurred at a time when a Health Care Facility was engaged in the course of rendering assistance to the State by providing health care services in response to the COVID-19 outbreak, unless it is established that such injury or death was caused by gross negligence or willful misconduct of such Health Care Facility, if 20 ILCS 3305/15 is applicable, or by willful misconduct, if 20 ILCS 3305/21 is applicable.

Section 4. Pursuant to Sections 15 and 21(b)-(c) of the IEMA Act, 20 ILCS 3305/15 and 21(b)-(c), I direct that during the pendency of the Gubernatorial Disaster Proclamations, Health Care Professionals, as defined in Section 1 of this Executive Order, shall be immune from civil liability for any injury or death alleged to have been caused by any act or omission by the Health Care Professional, which injury or death occurred at a time when a Health Care Professional was engaged in the course of rendering assistance to the State by providing health care services in response to the COVID-19 outbreak, unless it is established that such injury or death was caused by gross negligence or willful misconduct of such Health Care Professional, if 20 ILCS 3305/15 is applicable, or by willful misconduct, if 20 ILCS 3305/21 is applicable.

Section 5. Pursuant to Section 21(c) of the IEMA Act, 20 ILCS 3305/21(c), and the Good Samaritan Act, 745 ILCS 49, I direct that during the pendency of the Gubernatorial Disaster Proclamation, any Health Care Volunteer, as defined in Section 1 of this Executive Order, shall be immune from civil liability for any injury or death alleged to have been caused by any act or omission by such Health Care Volunteer in the course of rendering assistance to the State by providing services, assistance, or support in response to the COVID-19 outbreak, unless it is

established that such injury or death was caused by willful misconduct of such Health Care Volunteer.

Section 6. Nothing in this Executive Order shall be construed to preempt or limit any applicable immunity from civil liability available to any Health Care Facility, Health Care Professional, or Health Care Volunteer.

Section 7. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

JB Pritzker, Governor

Issued by the Governor April 1, 2020
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