



ALERT

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New York State Rolls Back Immunity Protections For Healthcare Providers Amid Pandemic

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Benjamin Geizhals, counsel to the firm, concentrates his practice in the counseling and representation of healthcare providers in transactional and regulatory matters. His clients include healthcare companies, doctors, dentists, other healthcare practitioners, nursing homes, medical billing and practice management companies.

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On August 3, 2020, Governor Andrew Cuomo signed a bill that will effectively reverse a number of liability protections previously granted to healthcare professionals, hospitals and nursing homes at the outset of the COVID-19 pandemic in New York State. Specifically, Senate Bill S8835 eliminates, on a prospective basis, the liability shield for healthcare providers in connection with (i) COVID-19 prevention services; (ii) the treatment of COVID-19 patients' comorbidities; (iii) the treatment of, and decisions made by healthcare providers with respect to, non-COVID-19 patients; (iv) the arrangement of COVID-19 services to be performed by other providers; and (v) decisions made pursuant to the emergency rules that are determined to not be appropriate. The law maintains the previously-enacted protections related to the diagnosis and treatment of COVID-19 patients, as well as protection for healthcare providers "where appropriate pursuant to a COVID-19 emergency rule".

N.Y. Executive Order 202.10, together with the Emergency or Disaster Treatment Protection Act (collectively, the "Rules"), had granted healthcare professionals and facilities broad immunity from civil and criminal liability with respect to care provided to patients—whether COVID-19 or non-COVID-19 patients—under the auspices of the coronavirus emergency rules. The Rules except from immunity willful or intentional criminal misconduct, gross negligence, reckless misconduct and intentional infliction of harm.

If you have any questions, please feel free to reach out to our Healthcare attorneys Benjamin Geizhals at (516) 880-7295 or bgeizhals@moritthock.com and Caitlyn Ryan at (516) 265-1156 or cryan@moritthock.com.



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