

## Liability Protections for Physicians, Advanced Practice Providers and Nurses

New York State Governor Andrew Cuomo's latest Executive Order – 202.10 – is focused on expanding capacity at hospitals and medical facilities, and increasing the number of health care workers to address the COVID-19 crisis. In addition, notably, the EO also provides immunity from civil liability for “any injury or death alleged to have been sustained directly as a result of an action or omission” by a physician, physician assistant, specialist assistant, nurse practitioner, and/or a registered or licensed professional nurse. This immunity should come as welcome news to hospitals, physicians, advanced practice providers and nurses who are on the front lines providing care to patients stricken with COVID-19. Without this, the law in the State of New York would allow patients and/or families of injured or deceased patients to bring medical malpractice lawsuits against the hospitals and providers from whom they received care during the COVID-19 crisis for as long as two and a half years following that care. This action taken by the Governor will now allow hospitals and providers to provide the care patients need without the specter of a lawsuit looming over them.

There is an exception to the immunity where an injury or death “was caused by gross negligence,” but such instances are very rare in the health care setting. To establish gross negligence, a litigant must effectively prove the conduct at issue was willful or intentional or recklessly disregarded the rights of others. In the health care realm, that would essentially require flagrant disregard for the standard of care, which is exceedingly rare. To be sure, physicians, advanced practice providers and nurses are always trying to do their best by patients.

Bond is continuing to monitor COVID-19 legal issues and is hosting weekly webinars on the latest federal and state developments. You can register for the complimentary weekly webinar [here](#).

If you have any questions about this memorandum or medical malpractice litigation generally, please contact [Jennifer M. Schwartzott](#), [Claire G. Bopp](#), any of the [attorneys](#) in our [Health Care Practice](#) or the attorney in the firm with whom you are regularly in contact.



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