

Executive Order Creates Immunity for Illinois EMS Providers and EMTs during the COVID-19 Disaster absent Willful Misconduct or Gross Negligence

Amundsen Davis Transportation Alert
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On April 1, 2020 Governor, J.B. Pritzker, entered Illinois Executive Order 2020-19 which immunizes EMS providers and EMTs (and other health care providers) from civil liability for any injury or death resulting from ordinary negligence that occurs during the State's response to the COVID-19 outbreak disaster. This is a change to the Illinois civil liability structure.

The Order directs all Health Care Facilities, including licensed EMS Services, and all Health Care Professionals, such as licensed EMTs, to render assistance in support of the State's COVID-19 outbreak response. The Order states further that EMS services and EMTs "rendering assistance" in the State's response to the COVID-19 outbreak are immune from civil liability for injuries or deaths that result from ordinary negligence during the emergency that began on April 1, 2020 and has been extended through April 30, 2020.

What qualifies as "rendering assistance," under the Order is broad and amorphous. A Health Care Facility, such as an EMS Service, is "rendering assistance" in support of the State's response by "taking necessary steps to prepare to treat patients with COVID-19." A Health Care Professional, like an EMT, is "rendering assistance" under the Order by providing health care services at a facility in response to the COVID-19 outbreak.

Given this expansive definition of "rendering assistance", the Order appears to effectively immunize EMS Services and EMTs from any claims for personal injuries that occurred on or after April 1, 2020, through the end of the State's COVID-19 disaster proclamation, so long as the injuries did not result from willful and wanton or grossly negligent conduct. As written this immunity **does not appear to be limited to negligence in the care of COVID-19 patients**, but rather extends to any act of negligence resulting in personal injuries so long as the negligence occurred during a period while "rendering assistance," to the

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state's COVID-19 response. This immunity seemingly includes any alleged negligent act, including, but not limited to, motor vehicle collisions that occur during Mediacar transports of patients unaffected by COVID-19 or while under dispatch to pick up a nonemergency patients for transport, so long as the EMS Service generally meets the low bar of "rendering assistance" as defined by the Order. At this point we do not know if the Executive Order retroactively applies back to March 9, 2020, the date of the governor's "disaster proclamation."

USA Today and other publications have commented on the litigious future that the pandemic will bring about. There is little doubt that broad creations of immunity are areas that may be added to the list. For now, though, Governor Pritzker has joined other leaders in protecting the health care industry with broad based immunities. We will continue to update as warranted.

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