New Ohio Law Protects Businesses from COVID-19 Lawsuits

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Categories:

Coronavirus Response Team

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As COVID-19 deaths and cases continue to rise, Ohio has taken legislative steps to provide protection to businesses that may face lawsuits as a result of employee or customer exposure to the virus. This includes health care professionals who may face tort suits or professional disciplinary action in connection with their good faith efforts to render care. This legislation, HB 606, was passed by both houses of the Ohio legislature, and signed into law by Governor Mike DeWine on September 14, 2020.

The new law precludes individuals who have been exposed to or contracted COVID-19 or a related illness from bringing suit against businesses for being exposed to the virus, unless the illness or exposure was the result of reckless, intentional, willful, or wanton action on the part of the business or provider. The law also specifies that any government orders or recommendations for operating during the pandemic should not be construed to establish a legally enforceable duty, or to create a private right of action for deviations from those recommendations or orders. Finally, the law states that, even where the immunity does not apply, no class actions will be permitted in connection with such exposure claims.

The law also extends certain immunity against both tort liability and professional discipline to healthcare providers for care rendered during the pandemic. The law provides that a health care provider shall not be liable in a civil action for damages in connection with care provided during a disaster or emergency, unless the provider's actions constitute intentional misconduct or willful and wanton misconduct. The law also provides immunity from suit for any inability to provide treatment or elective procedures as a result of an executive order or agency regulation imposed to address the COVID-19 pandemic, but only for the period between March 9, 2020 and September 30, 2021. As with the protections for businesses, the law specifies that no class actions may be brought in connection with such claims, even where the immunity does not apply. The law also precludes disciplinary action against healthcare

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providers in such circumstances, unless the provider's actions are grossly negligent.

If you or your business have questions regarding HB 606 or the government's response to the COVID-19 crisis generally, please contact Jason Renzelmann or Josh Lewis with Frost Brown Todd's Business and Commercial Litigation practice group or Deborah Hackathorn or Joseph Ewig with CivicPoint.

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