

State Safe Harbor/Civil Immunity Legislative Tracker

State	Bill	Status	Application of Safe Harbor	Safe Harbor	Exceptions
Alaska	SB 241	ENACTED (May 18, 2020)	<i>Health care providers</i> that provide health care services (e.g., hospital, medical clinic or office, special care facility, medical laboratory, physician, pharmacist, dentist, physician assistant, nurse, paramedic, emergency medical or laboratory technician, etc.) and nursing homes.	Provides that <i>health care providers</i> and <i>PPE manufacturers</i> are not liable for civil damages resulting from an act or omission in issuing, providing, or manufacturing PPE in the event of injury or death to the user of the PPE if the PPE was issued, provided, or manufactured in good faith to respond to the COVID-19 public health disaster emergency. Requires such health care providers and PPE manufacturers to notify the user of the PPE that the equipment may not meet established federal standards and requirements.	Does not preclude liability for civil damages as a result of gross negligence, recklessness, or intentional misconduct.
District of Columbia	B23-0735	ENACTED (May 15, 2020)	Any <i>health care provider, first responder, volunteer, or District government contractor or subcontractor</i> (i.e., “providers”), including a party involved in the health care process at the request of a health care facility or the District government and acting within the scope of the provider’s employment or organization’s purpose or contractual or voluntary service, even if outside the provider’s professional scope of practice, state of licensure, or with an expired license, who: <ul style="list-style-type: none"> Prescribes or dispenses medicines for off-label 	Exempts from liability in a civil action: <ul style="list-style-type: none"> A <i>health care provider, first responder, or volunteer</i> who renders care to a potential, suspected, or diagnosed individual with COVID-19 for damages resulting from such care or treatment of COVID-19 (or from any act or failure to act in providing or arranging medical treatment for COVID-19) during the public health emergency. A <i>donor of time, professional services equipment, or supplies</i> for the benefit of persons/entities providing care or treatment for COVID-19 (or care for the family members of such individuals) for damages resulting from such donating during the public health emergency. A <i>contractor or subcontractor</i> on a District government contract that has contracted to provide health care services or human care services related to the District’s COVID-19 response. 	Does not extend the limitation on liability to acts or omissions: <ul style="list-style-type: none"> That constitute a crime, actual fraud, actual malice, recklessness, breach of contract, gross negligence or willful misconduct. Unrelated to direct patient care (except in the case of contractors and subcontractors).

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			<p>use to attempt to combat the COVID-19 virus, in accordance with the federal Right to Try Act.</p> <ul style="list-style-type: none"> Provides direct or ancillary healthcare services or products (e.g., direct patient care, testing, equipment, supplies, etc.). Utilize equipment or supplies out of the product’s normal use for medical practice and the provision of healthcare services to combat the COVID-19 virus. 		
<p>Idaho</p> <p>*Note, this bill seems outside the scope of the liability provisions enacted in response to COVID-19. A similar bill was enacted in Maine in 2019.</p>	<p>HB 529</p>	<p>ENACTED (Mar. 19, 2020)</p>		<p>Provides that no <i>architect, engineer, or contractor</i> may be held liable for personal injury, wrongful death, property damage, or other loss related to any architectural, structure, electrical, mechanical, construction, design, or other professional service provided in response to a declared national, state, or local emergency, a disaster, or a catastrophic event.</p>	<p>Clarifies that limited liability will <u>not</u> apply if the injury, death, or damage is the result of unreasonable acts, gross negligence, or willful or wanton misconduct <u>or</u> if the architect, engineer, or contractor did <u>not</u> act as a reasonable architect, engineer, or contractor would have under the same or similar circumstances.</p>
<p>Iowa</p>	<p>SE 2338</p>	<p>ENACTED (June 18, 2020)</p>	<p><i>Health care providers</i> (i.e., health care professionals, health care facilities, home</p>	<p>Provides that <i>any person who possesses or is in control of a premises</i> who, directly or indirectly, invites or permits an individual onto a premises will <u>not</u> be liable</p>	<p>Clarifies that the liability protections applicable to those in control of a</p>

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			<p>health care facilities, and any other person or facility otherwise authorized to administer health care services or products).</p>	<p>for civil damages for any injuries sustained from the individual’s exposure to COVID-19.</p> <p>Clarifies that a person will not be held liable for civil damages for any injuries sustained from exposure or potential exposure to COVID-19 if the act or omission alleged to violate a duty of care was in substantial compliance with federal or state law, regulations, orders, or public health guidance related to COVID-19 that was applicable at the time of the alleged exposure.</p> <p>Provides that a health care provider will not be liable for civil damages for causing or contributing to the death or injury of an individual as a result of the provider’s acts or omissions while providing or arranging care in support of the state’s response to COVID-19.</p> <p>Provides that a person that designs, manufactures, labels, sells, distributes, or donates household disinfecting or cleaning supplies, PPE, or a qualified product in response to COVID-19 will not be liable in a civil action alleging personal injury, death, or property damage caused by the product or failure to provide proper instructions or sufficient warnings.</p>	<p>premises will not apply if the person:</p> <ul style="list-style-type: none"> • Recklessly disregards a substantial and unnecessary risk that the individual would be exposed to COVID-19. • Exposes the individual to COVID-19 through an act that constitutes actual malice. • Intentionally exposes the individual to COVID-19. <p>Does not extend liability protections for health care providers that constitute reckless or willful misconduct.</p> <p>Clarifies that the protections for designers and manufacturers of cleaning supplies and PPE will not apply to the person that:</p> <ul style="list-style-type: none"> • Had actual knowledge of a defect in the product and recklessly disregarded a substantial and unnecessary risk that the product would

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					<p>cause serious personal injury, death, or serious property damage.</p> <ul style="list-style-type: none"> Made such products with actual malice.
Kentucky	SB 150	ENACTED (Mar. 30, 2020)	<p>Health care providers who:</p> <ul style="list-style-type: none"> Provide or dispense medicines for off-label use to attempt to combat COVID-19, in accordance with the federal Right to Try Act. Provide health care services, upon the request of health care facilities or public health entities, that are outside the provider’s professional scope of practice. Utilize equipment or supplies outside of the product’s normal use for medical practice and the provision of health care services. 	<p>Provides that certain health care providers who in good faith render care or treatment of a COVID-19 patient during the state of emergency will have a defense to civil liability for ordinary negligence for any personal injury resulting from said care or treatment (or for any act/failure to act in providing or arranging further medical treatment), if the health care provider acts as an ordinary, reasonable, and prudent health care provider would have acted under the same/similar circumstances.</p> <p>Separately, provides that any business that manufactures PPE or personal hygiene supplies relative to COVID-19 (e.g., masks, gowns, sanitizer) during and in response to the state of emergency and does not make or provide such products in the normal course of its business will have a defense to ordinary negligence and product liability so long as the business has acted in good faith and in an ordinary, reasonable and prudent manner under the same/similar circumstances.</p>	
Louisiana	HB 826	ENACTED (June 13, 2020)		<p>Provides that no natural or juridical person, state or local government, or political subdivision thereof will be liable for any civil damages for injury or death resulting from or related to actual or alleged exposure to COVID-19 in the course of or through the performance of the person’s, government’s, or political subdivision’s</p>	<p>Does not confer immunity on:</p> <ul style="list-style-type: none"> The person, government, or political subdivision; or

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				<p>business operations.</p> <p>Specifically provides that no <i>natural or juridical person, state or local government, or political subdivision thereof, nor specifically a business event strategist; association meeting planner; corporate meeting planner; independent trade show organizer or owner; or any other entity hosting, promoting, producing, or otherwise organizing an event of any kind</i> will be liable for any civil damages for injury or death resulting from or related to actual or alleged exposure to COVID-19 in the course of/through the performance of hosting, promoting, producing, or otherwise organizing, planning, or owning a tradeshow, convention, meeting, association produced event, corporate event, sporting event, or exhibition of any kind.</p> <p>Separately, provides that neither of the following will be liable for civil damages for injury or death caused by PPE:</p> <ul style="list-style-type: none"> • <i>Natural or juridical person that designs, manufactures, labels, or distributes PPE</i> in response to the COVID-19 public health emergency. • <i>Natural or juridical person who uses, employs, dispenses, or administers PPE</i> 	<ul style="list-style-type: none"> • The person who uses, employs, dispenses, or administers PPE, if they failed to substantially comply with the applicable COVID-19 procedures established by federal, state, or local agency which governs the business operations or PPE and the injury or death was caused by the person’s, government’s, or political subdivision’s gross negligence or wanton reckless misconduct. <p>Does not confer immunity if the damages were caused by the gross negligence or willful or wanton misconduct of:</p> <ul style="list-style-type: none"> • The business event strategist, association meeting planner, etc. • The designer, manufacturer, distributor, etc. of PPE.
	SB 435	ENACTED (June 12, 2020)		<p>Provides that no <i>natural or juridical person, state or local government, or political subdivision thereof</i> will be liable for any civil damages for injury or death resulting from or related to actual or alleged exposure to COVID-19 in the course of or through the performance</p>	<p>Does not confer immunity on the person, government, or political subdivision if they failed to substantially comply</p>

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				of the person’s, government’s, or political subdivision’s business operations.	with the applicable COVID-19 procedures established by federal, state, or local agency which governs the business operations and the injury or death was caused by their gross negligence or wanton reckless misconduct.
	SB 508	ENACTED (June 12, 2020)	Restaurants (i.e., eating establishments that vie or offer for retail sale prepared food to the public within its premises).	Provides that no owner, operator, employee, contractor or agent of a restaurant which is in substantial compliance with: <ul style="list-style-type: none"> The state’s reopening order and any subsequent related proclamations; and Applicable COVID-19 procedures established by federal, state, or local agencies will be civilly liable for injury or death due to COVID-19 infection transmitted through the preparation and serving of food and beverage products by the restaurant during the COVID-19 public health emergency.	Does not confer immunity if the injury or death was caused by gross negligence or willful and wanton misconduct.
	SB 491	ENACTED (June 12, 2020)		Provides that, during a declared state of emergency, any natural or juridical person who renders disaster relief, recovery services, or products outside of the typical course and scope of their operations in coordination with federal, state, or local government will not be liable to recipient for any injury or death or a person or nay damage to property resulting therefrom.	Does not confer immunity in the event of gross negligence or willful misconduct.
Massachusetts	SB 2640	ENACTED (Apr. 17, 2020)	Health care facilities (e.g., hospitals, state hospitals, mental health centers,	Provides that health care professionals and health care facilities will be immune from suit and civil liability for any damages alleged to have been sustained by an act or	Clarifies that the immunity will not apply: <ul style="list-style-type: none"> If the damage was

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			<p>psychiatric hospitals, skilled nursing facilities, etc.).</p> <p>Health care professionals, whether acting as an agent, volunteer, contractor, employee, or otherwise, who are:</p> <ul style="list-style-type: none"> • Authorized to provide health care services pursuant to licensure or certification. • A student or trainee in their approved medical professional services academic training program. • A nursing attendant or certified nursing aid. • A nurse or home health aide. <p>Volunteer organization that makes its facility available to support the state’s response and activities during the COVID-19 emergency.</p>	<p>omission by the health care professional or health care facility in the course of providing health care services during the COVID-19 emergency, provided that:</p> <ul style="list-style-type: none"> • The health care facility or health care professional is arranging for or providing health care services pursuant to a COVID-19 emergency rule and in accordance with otherwise applicable law. • Arranging for or providing care or treatment of the individual was impacted by the health care facility’s or health care professional’s decisions or activities in response to treatment conditions resulting from the COVID-19 outbreak or COVID-19 emergency rules. • The health care facility or health care professional is arranging for or providing health care services in good faith. <p>Separately provides that a volunteer organization will be immune from suit and civil liability for any damages occurring in or at the volunteer organization’s facility where the damage arises from uses the facility for the state’s response and activities related to the COVID-19 emergency.</p>	<p>caused by an act or omission constituting gross negligence, recklessness, or conduct with an intent to harm or to discriminate based on race, ethnicity, national origin, religion, disability, sexual orientation, or gender identity by a health care facility or health care professional providing health care services.</p> <ul style="list-style-type: none"> • To consumer protection actions brought by the attorney general. • To false claims actions brought by or on behalf of the state. <p>Clarifies that the immunity will not apply to a volunteer organization if it is established that the damages were caused by the volunteer organization’s gross negligence, recklessness, or conduct with an intent to harm.</p>

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New Jersey	SB 2333	ENACTED (Apr. 14, 2020)	<p>Health care professionals, including a physician, physician assistant, advanced practice nurse, registered nurse, licensed practical nurse, other health care professional whose professional practice is regulated by the state or who is otherwise authorized to provide health care services in the state, an emergency medical technician, etc.</p> <p>Health care facilities used, operated, or designed to provide health services; medical or dental treatment or nursing; or rehabilitative or preventive care to any person (e.g., an ambulatory surgical facility, home health agency, hospice, hospital, infirmary, intermediate care facility, dialysis center, long-term care facility, medical assistance facility, mental health center, etc.) and related property when used for or in connection with any of the health services (e.g., a laboratory, research facility, pharmacy, laundry facility, health personnel training and lodging facility, etc.).</p>	<p>Provides that a health care professional will not be liable for civil damages for injury or death alleged to have been sustained because of an act or omission by the health care professional in the course of providing medical services to support the state’s response to COVID-19.</p> <p>Provides that a health care facility or a health care system will not be liable for civil damages for injury or death alleged to have been sustained as a result of an act or omission by one or more of its agents, officers, employees, etc., if—and to the extent such agent, officer, employee, etc.—is immune from liability based on their status as a health care professional.</p> <p>Clarifies that immunity will extend to any act or omission undertaken in good faith by a health care professional or health care facility/health care system to support efforts to treat COVID-19 patients and to prevent the spread of COVID-19.</p> <p>Separately, provides that a health care facility or a health care system will not be criminally or civilly liable for damages for injury or death alleged to have been sustained as a result of an act or omission by the facility; system; or one or more of the facility’s/system’s agents, officers, employees, etc. during the public health emergency in connection with the allocation of mechanical ventilators or other scarce medical resources, provided the health care facility or system adopts and adheres to a scarce critical resource allocation policy that—at a minimum—incorporates the “core principals” identified by the Commissioner.</p> <p>Extends liability protections to the health care facility’s or system’s agents, officers, employees, etc. for such an injury.</p>	<p>Clarifies that the immunity granted will <u>not</u> apply to acts or omissions constituting a crime, actual fraud, actual malice, gross negligence, recklessness, or willful misconduct.</p>

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New York	SB 7506	ENACTED (Apr. 3, 2020)	<p>Health care facility (e.g., a hospital, nursing home, or other facility licensed/authorized to provide health care services for any individual).</p> <p>Health care professional (e.g., a nursing attendant, a person licensed to provide emergency medical services, a home care services worker, etc.).</p> <p>Volunteer organization that has made its facility available to support the state’s response and activities under the COVID-19 emergency declaration and in accordance with any applicable COVID-19 emergency rule.</p>	<p>Provides that any health care facility or health care professional will have immunity from any civil or criminal liability for any harm or damages alleged to have been sustained as a result of an act or omission in the course of arranging for or providing health care services, if:</p> <ul style="list-style-type: none"> • The health care facility or health care professional is arranging for or providing health care services pursuant to a COVID-19 emergency rule or otherwise in accordance with applicable law. • The act or omission occurs in the course of arranging for or providing health care services and the treatment of the individual is impacted by their decisions or activities in response to/as a result of the COVID-19 outbreak and in support of the state’s directives. • The health care facility or health care professional is arranging for or providing health care services in good faith. <p>Separately, provides that a volunteer organization will have immunity from any civil or criminal liability for any harm or damages irrespective of the cause of such harm or damage occurring in or at its facility arising from the state’s response and activities under the COVID-19 emergency declaration.</p>	<p>Clarifies that the immunity does not apply if the harm or damages were caused by an act or omission constituting willful or intentional criminal misconduct, gross negligence, reckless misconduct, or intentional infliction of harm by the health care facility or health care professional providing the health care services or by the volunteer organization</p>
North Carolina	SB 704	ENACTED (May 4, 2020)	<p>Health care facilities and licensed clinical laboratories.</p> <p>Health care providers (e.g., individuals licensed to provide health care services in the ordinary course of business, health care</p>	<p>Provides that any health care facility, health care provider, or entity that has legal responsibility for the acts or omissions of a health care provider will have immunity from any civil liability for any harm or damages alleged to have been sustained as a result of an act or omission in the course of arranging for or providing health care services only if all of the following apply:</p>	<p>Does not apply civil liability if the harm or damages were caused by an act or omission constituting gross negligence, reckless misconduct, or intentional infliction of harm by the</p>

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			<p>facilities where health care services are provided to patients, any emergency medical services personnel, an office or director of a health care facility, etc.).</p> <p>A volunteer organization, including any medical organization, company, or institution that has made its facilities available to support the state’s response and activities under the COVID-19 emergency declaration.</p> <p>Essential businesses, non-profit organizations, educational institutions, and governmental entities identified in the COVID-19 executive order (and any business that the Department of Revenue determines is essential).</p> <p>Emergency response entities that manufacture, produce, or distribute PPE, testing equipment, or ventilators or process COVID-19 testing results.</p>	<ul style="list-style-type: none"> • The health care facility, health care provider, or entity is arranging for or providing health care services during the COVID-19 emergency declaration. • The arrangement or provision of health care services is impacted, directly or indirectly, by: <ul style="list-style-type: none"> – A health care facility, health care provider, or entity’s decision or activities in response to or as a result of the COVID-19 pandemic; or – The decisions or activities, in response to or as a result of the COVID-19 pandemic, of a health care facility or entity where a health care provider provides health care services. • The health care facility, health care provider, or entity is arranging for or providing health care services in good faith. <p>Provides that a volunteer organization will have immunity from any civil liability or any harm or damages occurring in or at its facility arising from the state’s response and activities under the COVID-19 emergency declaration.</p> <p>Provides that the following entities are immune from civil liability:</p> <ul style="list-style-type: none"> • An essential business that provides goods or services with respect to claims from any customer or employee for any injuries or death alleged to have been caused as a result of the customer or employee contracting COVID-19 while doing business with or while employed by the essential business. • An emergency response entity with respect to claims from any customer, user, or consumer for any injuries or death alleged to have been caused as 	<p>health care facility, health care provider providing health care services, or volunteer organization.</p> <p>Does not extend immunity from civil liability if the injuries or death were caused by an act or omission of the essential business or emergency response entity constituting gross negligence, reckless misconduct, or intentional infliction of harm.</p>

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				a result of the COVID-19 pandemic or while doing business with the emergency response entity.	
Oklahoma	SB 1947	ENACTED (May 21, 2020)	<p><i>Health care facilities</i> that are used, operated, or designed to provide health services; medical treatment; or nursing, rehabilitative, or preventive care to any person (e.g., ambulatory surgical facilities, hospitals, infirmaries, intermediate care facilities, kidney dialysis centers, etc.) and related property when used for or in connection with any of the health services (e.g., laboratories; research facilities; pharmacies; laundry facilities; health personnel training and lodging facilities, etc.).</p> <p><i>Health care providers</i> who provide health care services (e.g., physicians, pharmacists, dentists, physician assistants, nurse practitioners, registered and other nurses, paramedics, etc.).</p>	<p>Provides that any <i>person that designs, manufactures, labels, sells, distributes, or donates disinfecting and cleaning supplies</i> (e.g., hand sanitizer, disinfectants, sprays, wipes) <i>or PPE</i> (e.g., coveralls, face shields, gloves, gowns, masks, respirators, etc.) during and in response to the COVID-19 public health emergency that does not make such products in the ordinary course of business will not be liable in a civil action alleging personal injury, death, or property damage caused by or resulting from the product’s manufacturing, design, or failure to provide proper instructions or sufficient warnings.</p> <p>Extends immunity to <i>a government entity, health care facility, health care provider, first responder, or any business (or any employer/agent of such business) that utilizes such a product</i> such that they will not be liable in a civil action alleging personal injury, death, or property damage caused by or resulting from the selection, distribution, or use of such product.</p>	<p>Limits immunity such that it will not apply to any person, employee, or agent that:</p> <ul style="list-style-type: none"> • Had actual knowledge that the product was defective when put to the use for which the product was manufactured, sold, distributed, or donated and acted with deliberate indifference to or conscious disregard of a substantial and unnecessary risk that the product would cause serious injury to others. • Acted with a deliberate intention to cause harm.
	SB 1946	ENACTED (May 21, 2020)	<i>Person</i> (e.g., an individual, firm, partnership, corporation, or association).	Provides that a <i>person or agent thereof who conducts business in Oklahoma</i> will not be liable in a civil action claiming an injury from exposure or potential exposure to COVID-19, if the act or omission was in compliance	

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				<p>or consistent with:</p> <ul style="list-style-type: none"> • Federal or state regulations. • A presidential or gubernatorial executive order. • Guidance applicable at the time of the alleged exposure. 	
	SB 300	ENACTED (May 12, 2020)	<p>Health care facilities that are used, operated, or designed to provide health services; medical treatment; or nursing, rehabilitative, or preventive care to any person (e.g., ambulatory surgical facilities, hospitals, infirmaries, intermediate care facilities, kidney dialysis centers, etc.) and related property when used for or in connection with any of the health services (e.g., laboratories; research facilities; pharmacies; laundry facilities; health personnel training and lodging facilities, etc.).</p> <p>Health care providers who provide health care services (e.g., physicians, pharmacists, dentists, physician assistants, nurse practitioners, registered and other nurses, paramedics, etc.).</p>	<p>Provides that a health care facility or health care provider will be immune from civil liability for any loss or harm to a person with a suspected or confirmed diagnosis of COVID-19 caused by an act or omission by the facility or provider that occurs during the COVID-19 public health emergency, if the act or omission occurred in the course of arranging for/providing COVID-19 health care services for the treatment of the person who was impacted by the decisions, activities or staffing of, or the availability/capacity of space or equipment by the health care facility or provider in response to/as a result of the COVID-19 public health emergency.</p>	<p>Only applies to the extent the act or omission was not the result of gross negligence or willful or wanton misconduct of the health care facility or health care provider rendering the health care services.</p> <p>Does not grant immunity from civil liability for an act or omission in the provision of health care services to a person who did not have a suspected or confirmed diagnosis of COVID-19 at the time of the services.</p>

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Utah	SB 3007	ENACTED (May 4, 2020)	<i>Person</i> includes individuals, associations, institutions, corporations, etc.	Renders a <i>person</i> immune from civil liability for damages or an injury resulting from exposure of an individual to COVID-19 on the premises owned or operated by the person (or during an activity managed by the person).	Provides that immunity does not apply to willful misconduct, reckless infliction of harm, or intentional infliction of harm.
Wisconsin	HB 1038	ENACTED (May 28, 2020)	<p><i>Health care professional</i> (i.e., an individual licensed, registered, or certified by the medical examining board).</p> <p><i>Health care provider</i> (e.g., a nurse, chiropractor, dentist, physician, dietician, social worker, etc. and an adult family home).</p>	<p>Provides that any <i>health care professional; health care provider; or employee, agent, or contractor thereof</i> is immune from civil liability for the death of or injury to any individual or any damages caused by actions or omissions, provided the following requirements are satisfied:</p> <ul style="list-style-type: none"> • The action or omission is committed during the state of emergency or the 60 days following the date that the state of emergency ends. • The actions or omissions relate to health services provided or not provided in good faith or are substantially consistent with either (1) any direction, guidance, recommendation, or other statement by a federal, state, or local official to address or in response to the emergency/disaster; or (2) any guidance published by the department of health services, the federal department of health and human services, or any divisions of such agencies relied upon in good faith. <p>Separately, provides that any <i>person engaged in the manufacturing, distribution, or sale of emergency medical supplies</i>, who donates or sells, at a price that does not exceed the cost of production, emergency medical supplies to a charitable organization or governmental unit to respond to the COVID-19 health emergency is immune from civil liability for the death of or injury to any individual caused by the emergency medical supplies donated or sold by the person.</p>	Extends immunity only to the extent that the actions or omissions do not involve reckless or wanton conduct or intentional misconduct.

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				Provides that any <i>charitable organization</i> that distributes free of charge emergency medical supplies received from a person engaged in the manufacturing, distribution, or sale of emergency medical supplies is immune from civil liability for the death of or injury to an individual caused by the emergency medical supplies distributed by the charitable organization.	
Wyoming	SE 1002	ENACTED (May 20, 2020)	<i>Health care providers</i> (including those who are retired, who have an inactive license, or who are licensed in another state without a valid Wyoming license and while performing as a volunteer during a declared public health emergency).	Provides that, during a public health emergency, a <i>health care provider or other person—including a business entity</i> —who in good faith follows the instructions of the state, city, town, or county health officer (or who acts in good faith in responding to the public health emergency) will be immune from any liability arising from complying with those instructions or acting in good faith.	Clarifies that the immunity does not apply to acts of omissions constituting gross negligence or willful or wanton misconduct.