



## **FMA Summary of COVID-19 Liability Protection Bill (SB 72)**

On Monday, March 29, Gov. Ron DeSantis signed SB 72, a COVID-19 liability protection bill that was a key piece of desired legislation by the FMA.

This legislation provides as follows:

- Enacts specific provisions for COVID-19 related claims against healthcare providers that arise from:
  - Diagnosis or treatment of, or failure to diagnose or treat, a person for COVID-19
  - Provision of a novel or experimental COVID-19 treatment
  - Transmission of COVID-19
  - Delay or cancellation of a surgery or a delay or cancellation of a medical procedure based on a healthcare provider's interpretation of government-issued health standards specifically relating to the COVID-19 emergency
  - An act or omission with respect to an emergency medical condition that was the result of a lack of resources directly caused by the pandemic
  - The provision of treatment to a patient diagnosed with COVID-19 whose injuries were directly related to an exacerbation of the patient's preexisting conditions
- Changes the standard in a COVID-19 claim against a healthcare provider – a plaintiff in such a claim must prove by the greater weight of the evidence that the healthcare provider was grossly negligent or engaged in intentional misconduct.
- The bill established affirmative defenses for healthcare providers:
  - a) Substantial compliance with government-issued health standards specifically relating to COVID-19 or other relevant standards, including standards relating to the preservation or prioritization of supplies, materials, or equipment;
  - b) Substantial compliance with government-issued health standards specific to infectious diseases in the absence of standards specifically applicable to COVID-19;
  - c) Substantial compliance with government-issued health standards relating to COVID-19 or other relevant standards was not possible due to the widespread shortages of necessary supplies, materials, equipment, or personnel;
  - d) Substantial compliance with any applicable government issued health standards relating to COVID-19 or other relevant standards if the applicable standards were in conflict; or
  - e) Substantial compliance with government-issued health standards relating to COVID-19 or other relevant standards was not possible because there was insufficient time to implement the standards.
- The bill establishes a shorter statute of limitations.
- Establishes protections for businesses against COVID-19 related claims, separate from that provided to healthcare providers with different provisions.