

TO: All Volunteer Physicians, Podiatrists and Certified Nurse Midwives practicing within the Commonwealth of Pennsylvania under a Reactivated License

SUBJECT: COVID-19 Guidance – Notice 2020-8

DATE: April 8, 2020

In light of recent events and questions that have been presented to the Pennsylvania Insurance Department (Department), the Department is issuing this notice to all volunteer physicians, podiatrists and certified nurse midwives and to the hospitals and long-term care facilities where they may be practicing. The Department takes this opportunity to communicate the Medical Care Availability and Reduction of Error Fund's (Mcare Fund) guidance on its expectations on the limits of professional medical malpractice insurance during the COVID-19 pandemic.

In order to increase the number of health care practitioners available to respond to the COVID-19 emergency and to ensure continuity of patient care and services, Governor Wolf has granted the Department of State's request to suspend some licensing and regulatory requirements. The suspension of these requirements allows individuals in the healthcare field with Pennsylvania licenses that are inactive or expired to apply for reactivation and immediately resume work within their scope of practice upon issuance of the reactivated license. More information regarding reactivation of licenses can be found on the Pennsylvania Department of State website at <https://www.dos.pa.gov/Pages/COVID-19-Waivers.aspx>.

In response to the COVID-19 pandemic, the federal CARES Act (HR 748) was signed into law on March 27, 2020. Section 3215, entitled "Limitation on Liability for Volunteers Provision", provides for additional liability protection for licensed health care professionals who are providing health care services in response to this public health emergency as a *volunteer*. These protections are in addition to those already afforded by the Volunteer Protection Act of 1997 (Public Law 105-19) and the Pennsylvania Volunteer Health Services Act of 1996.

Under normal circumstances, unless a health care practitioner is practicing under a volunteer license issued by the Pennsylvania Department of State at an approved clinic, the Mcare Act requires that physicians, podiatrists and certified nurse midwives conducting 50% or more of their practice in the Commonwealth of Pennsylvania maintain medical malpractice insurance with separate limits and contribute to the Mcare Fund.

However, in consideration of Section 3215 of the CARES Act, physicians, podiatrists and certified nurse midwives that are providing health care services in hospital and long-term care facilities under reactivated licenses *voluntarily and without compensation* are *not* required to have individual limits or to individually participate in the Mcare Fund through the payment of an assessment. They may be covered by the medical malpractice insurance coverage of the hospital or long-term care facility for which they are volunteering and share those limits and payment of assessment. The name, medical license number and beginning and ending dates of practice for

practitioners volunteering in a hospital or long-term care facility must be reported to the Mcare Fund, however, no additional Mcare assessment is due on their behalf.

Those physicians, podiatrists and certified nurse midwives that provide health care services under reactivated licenses either outside a hospital or long-term care facility or for compensation *are still required* to have separate limits as prescribed Mcare Act and pay into the Mcare Fund.

If you have any questions about this notice, please contact:

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