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**NURSING HOME LITIGATION IN
THE AGE OF COVID**
December 2, 2021

Nursing Home residents have been ravaged by the effects of COVID 19. As vulnerable adults they are the most susceptible to the virus' life-threatening effects. However, other effects have dramatically impacted these residents. Family members can no longer visit. Without family supervision and intervention, a number of residents have suffered from a lack of attention and care resulting in delayed treatment, increased bedsores, increased infections and so on.

Furthermore, this past year the Florida Legislature passed legislation, Fla. Stat. §768.38, granting liability protections to businesses, including nursing homes for COVID-19 related injuries. The law raises the proof of liability from a preponderance of the evidence to clear and convincing. Moreover, the law requires a showing of gross negligence rather than simple negligence. Additionally, before a Plaintiff can bring a lawsuit the law requires an affidavit from a physician actively licensed in Florida, opining causation between the Defendant's bad acts and the Plaintiff's diagnosis of COVID. Lastly, if the Court finds that the Defendant "made a good faith effort" to comply with the standards of care as it relates to COVID prevention then essentially the Defendant is immune from civil liability.

Kimberley Kohn,



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