WEST VIRGINIA CODE: §55-19-3

§55-19-3. Definitions.

For the purposes of this article:

(1) "Arising from COVID-19" means any act from which loss, damage, physical injury, or death is caused by a natural, direct, and uninterrupted consequence of the actual, alleged, or possible exposure to, or contraction of, COVID-19, including services, treatment, or other actions in response to COVID-19, and without which such loss, damage, physical injury, or death would not have occurred, including, but not limited to:

(A) Implementing policies and procedures designed to prevent or minimize the spread of COVID-19;

(B) Testing;

(C) Monitoring, collecting, reporting, tracking, tracing, disclosing, or investigating COVID-19 exposure or other COVID-19-related information;

(D) Using, designing, manufacturing, providing, donating, or servicing precautionary, diagnostic, collection, or other health equipment or supplies, such as personal protective equipment;

(E) Closing or partially closing to prevent or minimize the spread of COVID-19;

(F) Delaying or modifying the schedule or performance of any medical procedure;

(G) Providing services or products in response to government appeal or repurposing operations to address an urgent need for personal protective equipment, sanitation products, or other products necessary to protect the public;

(H) Providing services or products as an essential business, health care facility, health care provider, first responder, or institution of higher education; or

(I) Actions taken in response to federal, state, or local orders, recommendations, or guidelines lawfully set forth in response to COVID-19.

(2) "COVID-19" and "coronavirus" means the novel coronavirus identified as SARS-CoV-2, the disease caused by the novel coronavirus SARS-CoV-2 or a virus mutating therefrom, and conditions associated with the disease.

(3) "COVID-19 Care" means services provided by a health care facility or health care provider, regardless of location and whether or not those services were provided in-person or through telehealth or telemedicine, that relate to the testing for, diagnosis, prevention, or

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treatment of COVID-19, or the assessment, treatment, or care of an individual with a confirmed or suspected case of COVID-19.

(4) "COVID-19 emergency" means the State of Emergency declared by the Governor of the State of West Virginia by proclamation on March 16, 2020, and any subsequent orders or amendments thereto.

(5) "Essential business" means a person or entity that is:

(A) An essential business or operation as specified by Executive Order No. 9-20 on March 23, 2020, and any subsequent orders or amendments thereto; or

(B) Within an essential critical infrastructure sector as defined by the United States Department of Homeland Security.

(6) "First responder" means a person who performs one or more "emergency services" as that term is defined in §15-5-2 of this code. "First responder" also includes any other person authorized by executive order who will be deployed in response to the COVID-19 pandemic.

(7) "Health care" means any act, service, or treatment as defined by §55-7B-2 of this code.

(8) "Health care facility" means a facility as defined by §55-7B-2 of this code and any other facility authorized to provide health care or vaccinations in response to the COVID-19 emergency, including, but not limited to, a personal attendant agency.

(9) "Health care provider" means a person, partnership, corporation, professional limited liability company, health care facility, entity, or institution as defined by §55-7B-2 of this code, whether paid or unpaid, including persons engaged in telemedicine or telehealth; and any person authorized to provide health care in response to the COVID-19 emergency, including, but not limited to personal attendants and the employer, employees or agents of a health care provider who provide, arrange for, and assist with the delivery of health care, including those whose licensing requirements were modified through executive order.

(10) "Impacted care" means care offered, delayed, postponed, or otherwise adversely affected at a health care facility or from a health care provider that impacted the health care facility or health care provider’s response to, or as a result of, COVID-19 or the COVID-19 emergency: *Provided*, That this provision does not prohibit claims that may otherwise be brought pursuant to §55-7B-1 *et seq*. of this code so long as such claims for loss, damage, physical injury, or death are unrelated to COVID-19 or the COVID-19 emergency and the care provided. If the issue of impacted care is raised by a defendant under §55-19-4 of this code, the circuit court shall, upon motion by the defendant, stay the proceedings, including any discovery proceedings, and, as soon as practicable, hold a hearing to determine whether the care offered, delayed, postponed, or otherwise adversely affected at a health care facility or from a health care provider was related to COVID-19 or the COVID-19 emergency. If the circuit court determines that the care offered, delayed, postponed, or otherwise adversely

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affected at a health care facility or from a health care provider was related to COVID-19 or the COVID-19 emergency and the care provided, then the cause of action shall be dismissed under §55-19-4 of this code.

(11) "Person" means an individual, partnership, corporation, association, state, county, or local governmental entity, or other entity, including, but not limited to, a school, a college or university, an institution of higher education, religious organization, or nonprofit charitable organization. "Person" includes an employee, agent, or independent contractor of the person, regardless of whether the individual is a paid or an unpaid volunteer.

(12) "Personal protective equipment" means coveralls, face shields, gloves, gowns, masks, respirators, or other equipment designed to protect the wearer or other persons from the spread of infection or illness.

(13) "Physical injury" means actual bodily harm, sickness, or disease.

(14) "Public health guidance" means written guidance related to COVID-19 issued by the Centers for Disease Control and Prevention, Occupational Safety & Health Administration of the United States Department of Labor, Office of the Governor, West Virginia Department of Health, or any other state, federal, county, or local government agency.

(15) "Qualified product" means personal protective equipment used to protect the wearer from COVID-19 or prevent the spread of COVID-19; medical devices, equipment, and supplies used to treat COVID-19 including products that are used or modified for an unapproved use to treat COVID-19 or prevent the spread of COVID-19; medical devices, equipment, or supplies utilized outside of the product’s normal use to treat COVID-19 or to prevent the spread of COVID-19; medications used to treat COVID-19 including medications prescribed or dispensed for off-label use to attempt to combat COVID-19; tests to diagnose or determine immunity to COVID-19; and components of qualified products.

(16) "Volunteer" means any person or entity that makes a facility, product, or service available to support a state, county, or local response to COVID-19.

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