



Health Law Diagnosis

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[Connecticut Supreme Court Issues Opinions Addressing Scope of Immunity for Health Care Workers Under Governor Lamont's Executive Order No. 7V](#)

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On August 8, 2023, the Connecticut Supreme Court issued opinions in [Mills v. Hartford HealthCare Corp.](#) and [Manginelli v. Regency House of Wallingford, Inc.](#) that addressed the scope of immunity for health care workers and facilities under Governor Ned Lamont's Executive Order No. 7V. Executive Order No. 7V provided immunity for health care professionals and facilities from civil suits when providing health care services in support of the state's COVID-19 response. Interestingly, the *Mills* ruling notes that this was the first time the Connecticut Supreme Court addressed the principles that govern interpretation of executive orders. Summaries of these two decisions appear below.

Mills v. Hartford Healthcare

In *Mills*, Cheryl Mills went to a hospital and complained of having a sore throat and a headache. Mills also explained that she had a heart murmur and needed a heart valve replacement. An emergency medicine physician at the hospital determined through an echocardiogram that Mills was having a heart attack. The proper treatment for a heart attack is to receive a coronary intervention in a cardiac catheterization lab. However, the hospital recently modified its protocols due to concerns relating to the spread of COVID-19. One protocol modification was to direct health care providers to avoid admitting patients who were suspected of having COVID-19 to the cardiac catheterization lab until they had tested negative for COVID-19 unless their symptoms demonstrated a need for emergency catheterization. The purpose of this protocol modification was to prevent the spread of COVID-19 and conserve personal protective equipment.

A doctor at the hospital determined that in order to meet the criteria for transfer to the catheterization lab, Mills needed to test negative for COVID-19. Mills was then transferred to the hospital's emergency room. Three days after being admitted to the emergency room, Mills' COVID-19 test came back negative. Mills died the next morning before being transferred to the catheterization lab.

The main issue in *Mills* was whether Hartford Healthcare was immune from malpractice and gross negligence suit under Executive Order No. 7V. The Order provided that health care professionals and facilities "shall be immune from suit for civil liability" when "providing health care services in support of the state's COVID-19 response" including "acts or omissions undertaken because of a lack of resources attributable to the COVID-19 pandemic."

In its analysis, the Connecticut Supreme Court determined the phrase "when providing health care services in support of the state's COVID-19 response" to be ambiguous, and, as a result, the circumstances surrounding the promulgation of Executive Order No. 7V were considered. The opinion discusses the hardships created by

COVID-19 and acknowledges that COVID-19 was a dangerous and highly contagious disease. However, the opinion also explains that “statutes in derogation of the common law are to be strictly construed.” The Court held that the Governor’s executive order authority had to be limited to combatting the danger posed, and therefore, Executive Order No. 7V could only provide immunity from suit for services directly combatting COVID-19. The Connecticut Supreme Court additionally held that after Mills’ COVID-19 test came back negative, the services were no longer directly combatting COVID-19.

Ultimately, the *Mills* Court disagreed with the trial court’s ruling that the defendants were entitled to immunity and held that the action could proceed on the counts alleging gross negligence against all defendants.

Manginelli v. Regency House of Wallingford, Inc.

The central issue in *Manginelli* is similar to the issue presented in *Mills*, but with slightly different facts. *Manginelli* involves a nursing home patient named Darlene Matejek. Matejek’s plan of care specified that she required assistance for bed and wheelchair transfers. In April of 2020, Matejek fell during a wheelchair transfer. The nursing home staff placed Matejek in her bed without reporting the fall to her family and failed to treat her pain for two days. Eventually, Matejek was brought to a hospital, where she was diagnosed with left and right femur fractures which permanently disabled both of her legs. Matejek later returned to the nursing home, and the nursing home failed to provide her prescribed physical therapy. Matejek then suffered a heart arrhythmia, atrial fibrillation, and severe anxiety and distress. Matejek died eight months later, and the action filed alleged that her death resulted from these injuries.

The issue in *Manginelli* was whether Regency House of Wallingford, Inc. is immune from malpractice suit under Executive Order No. 7V and, more specifically, whether immunity applies to treatment only of patients infected with COVID-19. The Connecticut Supreme Court held that Governor Lamont did not intend for Executive Order No. 7V to apply only to the diagnosis and treatment of COVID-19 patients, however, it was also held that the defendants in this case failed to prove that a lack of resources due to COVID-19 caused the alleged acts and omissions. Since the facts necessary to establish the immunity defense were unproven, the Court affirmed the trial court’s denial of defendant’s motion to dismiss.

Conclusion

It is valuable for health care workers to become familiar with these cases, as they both shed light on the interpretation of the scope of immunity for health care workers and facilities provided by Executive Order No. 7V. More broadly, these cases are also important, as they provide new guidance on the principles that govern interpretation of executive orders in Connecticut.

If you have any questions, please contact any member of Robinson+Cole’s [Health Law Group](#).

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