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## FCC ISSUES COVID-19 TCPA "EMERGENCY PURPOSES" EXCEPTION RULING

require the prior express consent of the called party. ☐

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The FCC has released a Declaratory Ruling confirming that the COVID-19 pandemic constitutes an "emergency" under the Telephone Consumer Protection Act (TCPA). Consequently, hospitals, health care providers, state and local health officials, and other government officials may lawfully communicate information about the coronavirus and mitigation measures without violating federal law.

The TCPA expressly excepts from its protections against unwanted calls those made for "emergency purposes." 47 U.S.C. § 227(b)(1)(A)-(B). The rules define "emergency purposes" to mean calls made necessary in any situation affecting the health and safety of consumers. 47 C.F.R. § 64.1200(f)(4). The exception is intended for "instances [that] pose significant risks to public health and safety, and [where] the use of prerecorded message calls could speed the dissemination of information regarding . . . potentially hazardous conditions to the public." *Id.*

The Ruling states that certain callers may lawfully make automated calls and send automated text messages to wireless telephone numbers when such calls are necessary to protect the health and safety of citizens pursuant to the exception.

When determining whether or not a call related to the COVID-19 pandemic qualifies as a call made for an emergency purpose, one should look to (i) the identity of the caller and (ii) the content of the call.

**Identity of the caller:** the caller must be from a hospital, or be a health care provider, state or local health official, or other government official as well as a person under the express direction of such an organization and acting on its behalf.

**Content of the call:** the content of the call must be solely informational, made necessary because of the outbreak, and directly related to the imminent health or safety risk arising out of the COVID-19 outbreak.

Among other examples given, calls made to collect debt, even if the debt arises from related health care treatment, are not made for an "emergency purpose" pursuant to the exemption and would still

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