

## COVID-19: HHS Issues Advisory Opinion Encouraging Broad Reading of its PREP Act Declaration

### Introduction

As the coronavirus (COVID-19) pandemic evolves, the United States faces unprecedented needs, which are quickly creating challenges for manufacturers, distributors and health care providers, among others. We have written an article titled, "[HHS Issues Advisory Opinion Encouraging Broad Reading of its PREP Act Declaration](#)" that we wanted to share with you.

### Brief summary underscoring key highlights

On April 14, 2020, the Department of Health and Human Services (HHS) General Counsel issued an advisory opinion ("the Opinion") on the March 10, 2020 Public Readiness and Emergency Preparedness Act ("PREP Act") Declaration ("the Declaration") related to COVID-19, in response to numerous requests for guidance from manufacturers, distributors, and health care providers. Although the Opinion is not binding law and does not answer every question about the Declaration, it does provide insight into the intended scope of the Declaration.

By way of background, the PREP Act confers a significant benefit to manufacturers, distributors, and providers of certain products by providing an affirmative defense to product liability lawsuits with respect to use of those products to respond to a declared emergency. The PREP Act provides immunity "from suit and liability under federal and state law with respect to all claims for loss caused by, arising out of, relating to, or resulting from the administration to or use by an individual of a covered countermeasure if a Declaration has been issued with respect to such countermeasure."<sup>2</sup> There are three key elements necessary to obtain PREP Act immunity, all of which are addressed in the Opinion and discussed in our article.

To read the full article please click [here](#).

We also authored previous content that may be useful please click [here](#).

To access all Hogan Lovells COVID-19 content please see our [COVID-19 information hub](#).

If you have any questions, please feel free to reach out and I'd be happy to address them.



**Lauren Colton**  
Partner, Baltimore  
T +1 410 659 2700  
[lauren.colton@hoganlovells.com](mailto:lauren.colton@hoganlovells.com)

