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CIVIL DIVISION
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Opinion 20-0104

Andi Matheu
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24 ELECTIONS - Conduct of Primaries & General

La. R.S. 18:1300, *et seq.*

A voter who is diagnosed with COVID-19 or is subject to a quarantine order while awaiting a COVID-19 diagnosis would qualify to vote absentee so long as a medical professional certifies that the voter is disabled.

Dear Ms. Matheu:

Your question concerns the eligibility of a voter to vote absentee by mail if they have been diagnosed with or tested positive for COVID-19, or have been advised by a medical or public health professional to quarantine awaiting the results of a COVID-19 test, during the time of the upcoming early voting and before Election Day. To answer that question, we look to La. R.S. 18:1300, *et seq.*

Our review of these statutes is fact dependent on the existence of the currently declared COVID-19 global pandemic that has had a significant impact on Louisiana. Upon review of the applicable Election Code provisions, it appears the most clearly applicable statutory provision is located at La. R.S. 18:1303(I). This provision governs the eligibility of voters with disabilities to vote absentee by mail and provides:

I. Voters with disabilities. (1) Any qualified voter who submits any of the following to the registrar of voters may vote absentee by mail upon meeting the requirements of this Chapter:

(a) A copy of a current mobility impairment identification card bearing a photograph of the voter and the international symbol of accessibility issued by the secretary of the Department of Public Safety and Corrections as authorized by the provisions of R.S. 47:463.4.

(b) A copy of current documentation showing eligibility for social security disability benefits, veteran's disability benefits, paratransit services, benefits from the office for citizens with developmental disabilities, or benefits from Louisiana Rehabilitation Services.

(c) Current proof of disability from a physician, optometrist, physician assistant as defined in R.S. 37:1360.22, or nurse practitioner as defined in R.S. 37:913.

(2) Any voter who submits the information required by Paragraph (1) of this Subsection by mail to the registrar shall include a copy of his Louisiana driver's license, his Louisiana special identification card issued pursuant to R.S. 40:1321, or other generally recognized picture identification card that contains the name and signature of the voter or a form on which the voter has listed the names and addresses of at least two persons residing in his precinct who could make oath, if required, to the effect that the voter is physically disabled.

La. R.S. 18:1303(I). (Emphasis added).

The term "disability" is not defined within the Election Code. However, La. R.S. 18:1303(I) does place significant emphasis on the opinion of a physician or other medical professional in determining what constitutes a "disability."¹ Therefore, a voter who is diagnosed with COVID-19 or is subject to a quarantine order while awaiting a COVID-19 diagnosis would qualify to vote absentee so long as a medical professional certifies that the voter is disabled.

Similarly, it appears from our review of the statutes that under this existing law, any voter with an underlying health condition known to be a co-morbidity for COVID-19 will qualify for an absentee ballot if a medical professional certifies that, in the medical professional's opinion, the existence of the co-morbidity presents an unreasonable risk for that voter to vote in person to the point that it rises to a disability under 1303(I).

These disabilities may not be permanent, but they are medical conditions that may prevent or prohibit a person from voting in person. These classifications of COVID-19 related conditions can be viewed as temporary disabilities and, therefore, fall within the definition of disability for the purposes of La. R.S. 18:1303(I).

This interpretation of the disability exception of La. R.S. 18:1303(I) does not impact an authorized voter's ability to vote pursuant to any other category of voters authorized to vote absentee by mail in La. R.S. 18:1303.

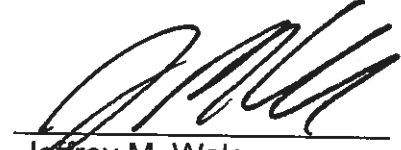
¹ The Louisiana Legislature in 2020 La. Acts No. 28 modified La. R.S. 18:1303(I) to include optometrists, physician assistants, and nurse practitioners in addition to physicians as qualified to provide current proof of disability. This opinion will discuss these individuals collectively as "medical professionals."

We hope that this opinion has adequately addressed the legal issues you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

With best regards,

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BY:



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