



Senate IBL Committee

HB 1175

March 10, 2021

Chairman Klein and Committee Members, I am Courtney Koebele, the Executive Director of the North Dakota Medical Association. The North Dakota Medical Association is the professional membership organization for North Dakota physicians, residents, and medical students.

NDMA supports HB 1175. HB 1175 supports our health care workforce by reducing unreasonable liability exposure, as current liability standards do not adequately contemplate the extreme circumstances under which clinical care was being provided during this pandemic.

The COVID-19 pandemic created a public health emergency that is rapidly altering the provision of health care services across the country based on guidance and recommendations from the Centers for Disease Control and Prevention and other federal, state and local government directives. Although necessary, these measures have raised concern about the potential liability of physicians and other health care professionals who are responding to the pandemic and continue to provide high-quality patient care while adhering to these guidance and recommendations. As a result, physicians face an increased threat of medical liability lawsuits due to circumstances that are beyond their control.

This is an issue important to physicians nationwide, because during the crisis, physicians were putting themselves at risk every day while facing shortages of medical supplies and safety equipment. Physicians are susceptible to the threat of unwarranted lawsuits as they continue heroic efforts to treat patients with COVID-19 while meeting the needs of other non-COVID-19 patients. These lawsuits may come months or even years after the current ordeal ends, when the public memory of their sacrifices may be forgotten.

This bill does nothing to alter the standard of care owed to patients in North Dakota; instead, it heightens the degree of negligence required to prove liability relative to that standard. As a result, patients will continue to be assured of the best possible care in light of the circumstances, while healthcare professionals will be assured that their dutiful efforts to provide care in these trying times will be recognized through commensurate liability protections.

There are state and federal liability protections that exist for volunteers responding to this pandemic, however, those liability protections do not apply to most paid physicians. Many states have provided similar liability protection through Executive Order, while other states have enacted statutes similarly limiting physician liability in a public health emergency. This legislation strikes an appropriate balance between supporting physicians and protecting patients.

NDMA urges a DO PASS recommendation on HB 1175.

Thank you.

Courtney Koebele
Executive Director
North Dakota Medical Association