



Senate Industry, Business and Labor Committee  
Sen. Jerry Klein, Chair  
March 10, 2021  
HB 1175

Good morning, Chairman Klein and members of the committee. My name is Michael LeBeau, M.D., and I serve as President for Sanford Health's western North Dakota region. I am here today representing the Health Policy Consortium, a healthcare advocacy group that includes Trinity Health in Minot, Altru in Grand Forks and Sanford Health in Fargo and Bismarck. Collectively we provide 80 percent of the acute healthcare services in North Dakota.

Let me begin by thanking each of you for your support and your leadership. North Dakota's lawmakers are a frontrunner in making decisions important to providing uninterrupted care for the patients we serve. As you know, providing high-quality healthcare in a rural state is uniquely challenging. But while other states struggle through hospital closures and shrinking access to care, North Dakota's hospitals are supported by sound policy decisions.

Sanford Health supports HB 1175. Please allow me to explain why. Immunity is necessary to prohibit liability against providers that are acting reasonably based upon the circumstances, and the COVID-19 pandemic has been a perfect example of extenuating circumstances. As this virus descended quickly upon the communities we serve, emerging treatments and treatment modalities required some trial and error to find the best solutions. At times, there were recommendations to use existing drugs outside of their generally accepted use. This produced successes and, at times, confirmation said treatment was ineffective.

With these constraints and new treatments came the unknown regarding how many of our own healthcare workers might become sick and unable to care for patients or how it would impact our communities versus what we saw and continue to see across the world. We still operate with unknowns as new strains are discovered and we still do not know if we will experience additional surges, or if our hospitals will become overwhelmed.

We also worked through enormous constraints on resources—limited personal protective equipment (PPE) and other supply chain shortages, a nationwide nursing shortage and our own frontline workers falling ill due to the virus.

At the outset of the COVID-19 pandemic there were many unknowns, yet hospitals and providers have remained dynamic by responding and pivoting in the face of rapid, new information as the pandemic continues. Treatments for this disease continue to evolve. This bill provides specific protection for health care providers and facilities who responded to the COVID-19 outbreak during great uncertainty about how best to treat a novel disease.

This bill does not provide unlimited protection; rather it provides the protection necessary for providers who stepped up quickly to care for patients. This is important to note because there were, and continue to be, many uncertainties with COVID-19.

Throughout this pandemic, we planned and strategized scenarios that at one time may have been unthinkable, whether we would have enough beds, PPE, staff, ventilators, etc. We had to think about what we might do if we had to allocate scarce resources among patients.

What we did know is that we needed to do what was the best for patients and our communities—whether it was getting a new facility online or purchasing large amounts of PPE. Healthcare did not shy away from what was right for our patients and this bill provides protections for just that—so long as the provider was trying to do the right thing based on information known at that time, this statutory immunity applies.

Since the outset of COVID-19, we have learned many things. Treatments are improving and we have seen the mortality rate decrease because of additional therapies. Providers have been maximizing oxygen usage, determining how best to position patients by proning them and vent management has improved significantly. We have seen the expansion of drugs in the combat of the virus, such as Remdesivir and monoclonal antibodies. Now we have added vaccine options—but we still have a long way to go and with this bill, it supports the work providers are doing and shielding them from liability when they are doing the right thing.

In closing, as a result of COVID-19, the provision of health care across the country has rapidly changed based on guidance and recommendations from regulatory agencies such as the CDC and public health

directives. We continue to provide high quality patient care, while adhering to these recommendations and directives. At times, this care may have to be provided without the appropriate or optimal equipment, supplies or health care team members. We feel it is important to protect the providers who are on the front lines providing care to COVID-19 patients during this challenging time.

HPC is supportive of this bill and, as a medical doctor, I, too, am supportive of this bill.

I would be happy to answer any questions.

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