

Chairman Klein and members of the Industry, Business and Labor Committee, my name is Jaci Hall and I am the Executive Director for the North Dakota Association for Justice. Today, I am here opposed to HB 1175 as it is written.

As currently written, HB1175 creates unearned protection to businesses and healthcare practitioners and facilities and forgets about the consumer and the employee's concerns for their safety and wellbeing.

The intent of this legislation is to provide relief to North Dakota businesses and the healthcare community from unnecessary lawsuits due to the impact of COVID-19. We believe that the support of businesses and the healthcare community is needed, as the pandemic caused uncertainty and swift changes needed to be made to try and keep up with federal, state and local policy changes.

HB1175 is one of many efforts to provide relief and is modeled after many others that have been introduced in legislatures all over the country. Over 40 states have some sort of legislation to support the business community.

Dr. Michael Lebeau submitted testimony in support of HB1175 to **“protect providers who are on the front lines providing care to COVID-19 patients during this challenging time.”** We believe the same, which is why we are asking to an amendment to clarify HB1175 and protect providers who are caring for those with COVID-19.

The amendment is as follows: Page 3 lines 23-26 of subsection 1.

1. A healthcare provider or healthcare facility is immune from civil liability for any act or omission in response to COVID-19 that causes or contributes, directly or indirectly, to the death or injury of an individual where the complained of injury or death was due to underlying COVID-19. The immunity provided under this subsection includes:

The reason for the amendment is to clarify that this immunity is to protect providers providing care to COVID-19 patients.

Medical Negligence happens more often than one would want, for a variety of different reasons. HB1175 was created to protect providers providing care to COVID-19 patients, not to give a blanket immunity to any provider or institution who does not provide the standard of care they are required to provide.

The medical community works hard to provide care to those in need. Systems and processes are already in place within the Civil Justice System that protect frivolous medical negligence claims against facilities and providers. The amendment to HB1175 clarifies that any negligence claim that is not associated with COVID-19 is able to go through the legal channels to determine merit.

Since HB1175 is modeled legislation in other states as well, I would like to highlight an example in North Carolina:

A patient in a long term care facility in North Carolina had recently lost her legs to diabetes and suffered for months with bedsores. After a few months the sore became infected and had transitioned to a stage 4 pressure ulcer. Her children advocated for her to be transitioned to a hospital, but the advocacy went unanswered and the patient died. The patient was not diagnosed with COVID-19 during this time. The children later filed a lawsuit for negligence. The suit was thrown out due to vague legislation, like HB1175 as it is currently written.

North Dakota citizens deserve to have the ability to file negligence claims when they are warranted. The amendment to HB1175 will provide an avenue for those who are not impacted with COVID-19 during the window this legislation serves.

Today we ask you to continue to do what is needed to protect businesses and the medical community from the impacts of COVID-19. But as Melissa Hauer of the North Dakota Hospital Association states in her supportive testimony - **“protect the providers who are on the front lines providing care to COVID-19 patients during this challenging time.”** The amendment we are requesting will do just that - **protect providers who are providing care to COVID-19 patients.**

During the house hearings, the IBL committee added the sunset clause to the original bill. The clause came from the understanding that medical negligence claims have a two-year window. We ask you to keep this sunset in the current form of the bill as well. North Dakota is on the downward trend in COVID-19 cases and by this summer, the state will have enough vaccines to provide immunizations to all who want them. There is no need to prolong this legislation or to provide COVID immunity once the ‘pandemic’ is over.

Currently, there are no open lawsuits in the state of ND for medical negligence claims in North Dakota, and no licensed attorneys are seeking cases. By adding the amendment, you will clarify the intent and remove additional frivolous lawsuits the business community is concerned about.

In closing, the North Dakota Association for Justice is here today to ask you to clarify HB1175 by adding this important amendment and provide the protection as Ms. Hauer, Dr. Lebeau and Ms. Koebele ask of you in their supportive testimony of HB1175- **to protect providers who are providing care to COVID-19 patients.**

Thank you for the opportunity to speak. Online today is one of NDAJ’s members, Nathan Severson, who will further clarify the difference in how the legislation will be interpreted with and without the amendment. I look forward to working with the committee and others in this room to ensure that this legislation does as it was intended - **to protect providers who are providing care to COVID-19 patients.**