



**Pennsylvania Chapter**



May 20, 2020

Dear Governor Wolf and Members of the General Assembly:

On behalf of the undersigned organizations, we write to request that the Commonwealth take additional steps to provide liability protections to health care providers who are making sacrifices and exposing themselves every day to personal risks to treat and protect all Pennsylvanians. While we are appreciative of the recent Executive Order that provides civil immunity for individual health care practitioners within a facility against malpractice actions stemming from care provided to COVID-19 patients during the disaster emergency response, we believe that further executive or legislative action is necessary to protect facilities and other providers in this challenging environment.

As you know, the health care community is facing difficult circumstances and must fully direct their attention to treating patients and bringing this health care crisis under control rather than focusing on lawsuit mitigation. Pandemics require rapid decision-making by providers and appropriate liability protections should be established to foster the best from our health care system. During this time, health care facilities, agencies, small and private practices, and other providers—not just practitioners—should not have to worry about the threat of frivolous lawsuits as they care for patients in communities throughout Pennsylvania.

Many other states, most notably New York and New Jersey, were leaders in enacting legislation to support their health care facilities and professionals providing life-saving treatment to those diagnosed with COVID-19. They have done this in response to the lack of protections provided at the federal level though the CARES Act and PREP Act, which do not cover the day-to-day interactions and decisions of practitioners and facilities in dealing with COVID-19.

The actions to protect both providers and practitioners acknowledge that less-than-ideal clinical circumstances, including resource or staffing shortages, may occur as health care providers battle the COVID-19 pandemic. To be effective, immunity protections must protect all licensed facilities and service providers, as well as administrators and other non-clinical leadership, beginning the first day of the disaster declaration. It is also important to note that the failure to extend liability protections to all licensed facilities and providers will have the additional negative effect of increasing liability insurance costs by millions of dollars, as insurance coverage held by practitioners will no longer be available to help satisfy malpractice judgments.

In addition, we urge you to extend liability protections to circumstances where care was deferred as a result of state orders to close services. Health care providers should not be subject to lawsuits arising out of delayed care due to compliance with extraordinary state mandates.



[The Urban Health Care Coalition of Pennsylvania](#)

We recognize that this request for liability protection must be balanced against the rights of individuals. In this context, willful or criminal misconduct, gross negligence, reckless misconduct or a conscious, flagrant indifference to the rights or safety of the individual should not be protected.

Our members across the state have expressed their thoughtful and deep concerns that our health care system's ability to care for patients will be negatively impacted by fears of liability. Without extended immunity protections, the entire health care community remains exposed to a barrage of frivolous lawsuits for years to come impacting health care in every corner of the Commonwealth.

As the nation thanks our health care community, Pennsylvania's thank you should include the legal protections they deserve.

Respectfully,

American College of Physicians

Healthcare Council of Western Pennsylvania

LeadingAge PA

National Association of Social Workers

Pennsylvania Academy of Family Physicians

Pennsylvania Association for Behavioral Healthcare

Pennsylvania Association of Certified Nurse Midwives

Pennsylvania Association of Community Health Centers

Pennsylvania Association of Nurse Anesthetists

Pennsylvania Athletic Trainers Society

Pennsylvania Chapter, American Academy of Pediatrics

Pennsylvania Chiropractic Association

Pennsylvania Coalition for Oral Health

Pennsylvania College of Emergency Physicians

Pennsylvania Health Care Association

Pennsylvania Dental Association

Pennsylvania Homecare Association

Pennsylvania Medical Society

Pennsylvania Optometric Association

Pennsylvania Pharmacists Association

Pennsylvania Psychiatric Society

Pennsylvania Psychological Association

Pennsylvania Section of the American College of Obstetricians and Gynecologists

Pennsylvania Society of Physician Assistants

Rehabilitation and Community Providers Association

Safety-Net Association of Pennsylvania

The Hospital and Healthsystem of Pennsylvania

Urban Health Care Coalition