



Sound Policy. Quality Care.

20TH ANNIVERSARY

July 1, 2020

The Honorable Mitch McConnell
Senate Majority Leader
United States Senate
Washington, DC 20510

The Charles Schumer
Senate Minority Leader
United States Senate
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

The Honorable Kevin McCarthy
House Minority Leader
U.S. House of Representatives
Washington, DC 20515

The Honorable Steny Hoyer
House Majority Leader
U.S. House of Representatives
Washington, DC 20515

RE: Need for Medical Liability Protections in Fourth COVID-19 Response Package

Dear Leader McConnell, Speaker Pelosi, Leader Schumer, Leader Hoyer, and Leader McCarthy:

Thank you for your leadership and your tireless efforts during this unprecedented crisis. The Alliance of Specialty Medicine (the “Alliance”) represents more than 100,000 specialty physicians, and is dedicated to the development of sound federal health care policy that fosters patient access to the highest quality specialty care. As patient and physician advocates, the Alliance writes to urge you to provide additional medical liability protections for physicians in the next legislative response to the COVID-19 pandemic.

The public health emergency triggered by the COVID-19 pandemic has created unprecedented challenges to our nation’s health care system. Physicians have faced inadequate supplies and safety equipment as well as rapidly changing guidance and directives from all levels of government. Physicians have had to suspend most elective and urgent in-person visits and procedures, been assigned to provide care outside the physician’s general practice area, delayed care due to shortages of equipment such as ventilators, inadequate testing that could lead to delayed or inaccurate diagnosis, and delays in treatment for patients with conditions other than COVID-19. In these and other scenarios, physicians face the threat of medical liability lawsuits due to circumstances that are beyond their control.

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American Academy of Facial Plastic and Reconstructive Surgery • American Association of Neurological Surgeons
American College of Mohs Surgery • American College of Osteopathic Surgeons • American Gastroenterological Association
American Society for Dermatologic Surgery Association • American Society of Cataract & Refractive Surgery • American Society of Echocardiography
American Society of Plastic Surgeons • American Society of Retina Specialists • American Urological Association • Coalition of State Rheumatology Organizations
Congress of Neurological Surgeons • National Association of Spine Specialists • Society for Cardiovascular Angiography and Interventions

We are grateful that the *Coronavirus Aid, Relief, and Economic Security (CARES) Act* (P.L. 116-136) incorporated important protections for volunteer physicians during the COVID-19 crisis. However, concerns remain related to potential medical liability. Therefore, the Alliance urges that you address the following in the next COVID relief package:

- Provide physicians immunity from civil liability for any injury or death alleged to have been sustained because of any acts or omissions undertaken in good faith while responding to the COVID-19 pandemic;
- Address issues resulting from delayed care;
- Ensure that liability protections are appropriately extended to physicians who come out of retirement and for physicians practicing outside their specialty area as necessary to fight coronavirus during this unprecedented time;
- Provide specific protections for following government orders/guidance;
- Include an effective date retroactive to the date the national emergency was declared (i.e., January 31, 2020 retroactive to January 27, 2020).; and
- Maintain vital protections for those who are victims of acts of gross negligence or willful misconduct.

To shield health care professionals from the serious threat of COVID-19-related liability lawsuits, the Alliance specifically supports the limited and targeted protection from liability provided by H.R. 7059, the *Coronavirus Provider Protection Act*. This bipartisan bill will help ensure that health care professionals on the front lines of the coronavirus pandemic can focus on helping patients without the fear of getting drawn into unwarranted lawsuits. The narrow liability protections within H.R. 7059 would apply only if the act or omission occurred during the declared COVID-19 public health emergency or within 60 days of termination of the emergency; the services were within the provider's scope of licensure/certification, the act or omission was taken based on direction or guidance from any federal, state, or local official/department/agency; and the act or omission was taken due to a lack of resources attributable to the COVID-19 pandemic. While protecting those providing care in good faith, this legislation appropriately excludes liability protections in situations of gross negligence or willful misconduct.

Thank you again for your leadership and for continuing to work to address this ongoing crisis. Please do not hesitate to contact any of the undersigned organizations should you have questions or require additional information.

Sincerely,

American Academy of Facial Plastic & Reconstructive Surgery
American Association of Neurological Surgeons
American College of Osteopathic Surgeons
American College of Mohs Surgery
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