

May 12, 2020

Committee on Judiciary
Michigan House of Representatives
P.O. Box 30014
Lansing, MI 48909-7514

Dear Members of the House Committee on Judiciary:

On behalf of the Michigan State Medical Society (MSMS) and our physician and medical student members, thank you for your consideration of Senate Bill 899 (S-2). MSMS supports this legislation which seeks to clarify immunity protection for health care providers acting in response to the current novel coronavirus (COVID-19) pandemic. For decades, it has been the public policy of Michigan to provide immunity to health care providers who furnish health care services during a time of emergency or disaster, and this legislation will statutorily codify that policy specifically to the COVID-19 pandemic.

Michigan's physicians and other health care providers have responded to the State's call to support its efforts to protect the health and well-being of the people of Michigan due to the novel COVID-19 pandemic. Passage of Senate Bill 899 (S-2) is necessary to safeguard physicians and other health care providers on the front lines of this new, novel virus, as they treat patients and make other treatment decisions in compliance with the orders of governmental authorities. They have adapted rapidly to situations and circumstances that are less than ideal. Many have put their own lives and the lives of their families at risk, caring for severely ill patients with COVID-19. Physicians have also placed the sustainability and viability of their practices at risk by adhering to federal, state, or local directives to limit and postpone services. Yet, they understand these actions are necessary to protect valuable health care resources and mitigate the spread of COVID-19 in order to save lives. The provision of health care has been affected by guidance and recommendations from the Centers for Disease Control and Prevention (CDC), federal, state, and local directives as well as limited availability of COVID-19 testing, equipment, resources, space, and health care team members. The impact on patients has been experienced not only within hospitals and surgical facilities, but also within private medical practices.

In Michigan, several executive orders issued by Governor Whitmer have impacted the delivery of care by addressing a variety of issues including, but not limited to, visitor restrictions, screening requirements, postponement of non-essential medical and dental procedures, and a requirement for people to shelter in place. As a result, the curve appears to have flattened, and lives have certainly been saved. Unfortunately, in that process, the demand for health care services has risen dramatically.

Deciding which medically necessary surgeries and procedures can be temporarily delayed are complex multi-faceted determinations often made by the physician and panels of experts within a facility. Even with layers of protocols and processes, such decisions are not guaranteed. Such delays may initially cause additional pain, stress or concern for the patient and patient's family and at the extreme, may result in unforeseeable negative outcomes. To add to the complexity of the situation, many patients have avoided time-sensitive critical care out of fear of contracting COVID-19 either at the hospital or their doctor's office. Also, they have been told repeatedly to stay home in order to stay safe. And many have done just that.

All of these factors, which are beyond the control of physicians and other health care providers, have raised concerns about potential liability . Michigan physicians have answered the call to treat and protect their patients from a virus never before seen in humans through direct care on the front lines, by shifting care to telemedicine, and by following government directives impacting treatment decisions. They are at the forefront caring for patients throughout this pandemic, despite risks to their own health and safety and viability of their medical practices and facilities.

Just as they have answered the call to protect us, MSMS respectfully requests your support of Senate Bill 899 (S-2) to protect them from liability claims arising from the COVID-19 response and ensure their continued ability to serve patients.
Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Julie L. Novak". The signature is written in a cursive style with a large, stylized initial "J".

Julie L. Novak
Chief Executive Officer