



PO Box 78096
Washington, DC 20013-8096
www.HCLA.org

February 4, 2022

The Honorable Patty Murray, Chair
Health, Education, Labor & Pensions Committee
United States Senate
428 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Richard Burr, Ranking Member
Health, Education, Labor & Pensions Committee
United States Senate
217 Russell Senate Office Building
Washington, D.C. 20510

Subject: “PREVENT Pandemics Act”

Dear Chairman Murray and Ranking Member Burr:

On behalf of the Health Coalition on Liability and Access (HCLA), a diverse coalition of medical professionals, associations and other stakeholders working to reduce medical lawsuit abuse and improve timely access to quality care, we would like to thank you for giving us an opportunity to comment on the discussion draft of the *PREVENT Pandemics Act*.

As the COVID-19 pandemic evolves, our frontline medical professionals and the facilities that employ them continue to be exposed to a potential flood of medical liability lawsuits arising from a variety of issues beyond their control, including workforce shortages, shortages of personal protective equipment, and delays in nonessential care resulting from public health guidance and government mandates issued during the pandemic. These circumstances, which have occurred across the nation, highlight the need for Congress to provide a uniform set of liability protections for medical professionals who responded to the COVID-19 pandemic. While we appreciate your inclusion of proposed language to permanently extend liability coverage under the Federal Tort Claims Act to medical volunteers at community health centers, we believe that additional language is needed to address inconsistencies in current federal and state laws that could result in unjust medical liability lawsuits against those who have sacrificed the most to protect us during this pandemic.

In this regard, our coalition urges you to consider adopting civil liability protections for medical professionals and facilities that include the following principles taken from the *Coronavirus Provider Protection Act of 2021* (H.R. 3021):

- Liability protections should apply to all care affected by the pandemic, including care that was altered due to government guidance, and not just for care for COVID-19 patients or suspected patients;
- Liability protections should be for a limited duration;
- Liability protections should be limited to care provided under the scope of licensure/certification, but not limited to normal scope of practice;
- Care that constitutes gross negligence or willful misconduct should not be protected.

In the longer term, it will be important to ensure any future pandemic or public health emergency does not result in a shortage of available healthcare professionals. To address this, we strongly urge you to include the *Good Samaritan Health Professionals Act of 2021* (S. 2941) in the *PREVENT Pandemics Act*. This legislation would provide medical liability protection to volunteer healthcare professionals who treat victims a public health emergency or federally declared disaster. The bill removes the threat of unwarranted lawsuits which may deter qualified individuals from volunteering while respecting existing medical liability laws in individual states. Additionally, the bill is narrowly tailored to apply its protections only to licensed healthcare providers, and does not apply to a healthcare professional if the harm caused was criminal or deliberate in nature. Similar language was included in the *CARES Act* to protect volunteers during the COVID-19 pandemic, and expanding that language to cover future public health emergencies and disasters will speed those response efforts and increase access to care when it is needed most.

On behalf of our coalition members, and patients and medical professionals across the country, we urge you to include the *Coronavirus Provider Protection Act* and the *Good Samaritan Health Professionals Act* in the *PREVENT Pandemics Act*. Doing so will bolster the outstanding work the HELP Committee has done over the years to expand patients' access to healthcare services, while closing gaps in current statutes which may deter some health professionals from serving when tragedy strikes.

Sincerely,



Michael C. Stinson

Chair



HCLA Membership List

Board of Directors

American Assn. of Neurological Surgeons/Cong. of Neurological Surgeons
American Association of Orthopaedic Surgeons - Secretary
American College of Surgeons
American Medical Association
American Osteopathic Association
Cooperative of American Physicians
MLMIC Insurance
Medical Professional Liability Association
Physicians Insurance A Mutual Company

General Membership

AMDA – The Society for Post-Acute and Long-Term Care Medicine
American Academy of Dermatology Association
American Academy of Otolaryngology – Head and Neck Surgery
American College of Emergency Physicians
American College of Obstetricians and Gynecologists
American Health Care Association/National Center for Assisted Living
American Hospital Association
American Society of Anesthesiologists
American Society of Plastic Surgeons
American Tort Reform Association
American Urological Association
Californians Allied for Patient Protection
COPIC Insurance Company
Federation of American Hospitals
ISMIE Mutual Insurance Company
MAG Mutual Insurance Company
Medical Assurance Company of Mississippi
Medical Insurance Exchange of California
MedPro Group
National Association of Spine Specialists
Piedmont Liability Trust
Premier health alliance
ProAssurance
SVMIC
Texas Alliance for Patient Access
Texas Medical Liability Trust
The Doctors' Company