

Provide Liability Protections for Health Care Providers and Facilities that Recognizes the Evolving Standards of Care During COVID-19

(Senate Bill 5271)

Background

The COVID-19 pandemic has created an enormous strain on health care providers. This public health crisis has placed an oversized burden on Washington's health care providers and facilities as they care for our families and communities. As this pandemic continues, the law should accurately reflect the realities of the challenging practice conditions providers face and not unfairly target providers and facilities with risk of litigation. The state's current standard of care law should still apply but be qualified, giving special consideration to additional factors during the declared COVID-19 emergency.

WSHA Position

WSHA strongly supports legislation to provide narrow legal protections for health care providers and facilities on the front lines of the COVID-19 pandemic caring for our communities. The legislation is drafted to reflect the challenges faced during the declared emergency, such as: evolving and sometimes conflicting direction from health officials regarding treatment for COVID-19-infected patients; shortages of personal protective equipment and testing supplies; and a proclamation from the governor on non-urgent procedures resulting in delayed or missed health screenings and diagnoses.

Key Messages

- A standard of care that reflects the realities during this declared emergency is fair and appropriate, particularly when the state government's directives have created a significant amount of risk.
- The stoppage of non-urgent procedures in the Spring of 2020 because of a COVID-19 surge meant delayed care for patients. It is also unclear how many cancer screenings and diagnoses were missed.
- Washington law already protects out-of-state health care providers – whether they are employed or not – when they practice in Washington during a declared emergency.
- Health care providers in Washington are already experiencing increased premiums and pandemic-related exclusions in insurance coverage. The number of incident reports – often a precursor to lawsuits – is increasing.
- Washington is one of just 14 states to receive an "F" grade from Health Affairs on legal protections for its own health care providers.

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