



Maryland Continuing Care Residents Association
Protecting the Future of Continuing Care Residents
The Voice of Continuing Care Residents at Annapolis

SUBJECT: House Bill 508 – COVID-19 Civil Claim
COMMITTEES: House Judiciary Committee
The Honorable Luke Clippinger, Chair
DATE: Wednesday, February 3, 2021
POSITION: **UNFAVORABLE**

The **Maryland Continuing Care Residents Association (MaCCRA)** is a not-for-profit organization representing the residents in continuing care retirement communities (CCRCs). Maryland has over 18,000 older adults living in CCRCs. The principal purpose of MaCCRA is to protect and enhance the rights and financial security of current and future residents while maintaining the viability of the providers whose interests are frequently the same as their residents. MaCCRA SUPPORTS efforts to:

- Enhance: Transparency, Accountability, Financial Security; and
- Preserve existing protections in law and regulation for current and future CCRC residents statewide.

On behalf of the Maryland Continuing Care Residents Association, we offer the following comments and concerns in opposition to House Bill 508. As drafted, House Bill 508 *“provides immunity from civil liability for claims related to COVID-19 for all “persons” who follow applicable federal, State, and local statutes, rules, regulations, executive orders, and agency orders related to COVID-19 (COVID-19 rules and regulations), so long as the person’s actions do not amount to gross negligence or intentional wrongdoing. An isolated, minor deviation from strict compliance with COVID-19 rules and regulations does not deny a person this immunity if the deviation is not related to the plaintiff’s injuries. The bill also specifies exceptions to application of this immunity, including proceedings and causes of action that are not “COVID-19 claims.” The bill’s provisions are severable. The bill takes effect July 1, 2021, and applies retroactively to affect any claim arising between March 5, 2020, and 180 days after the expiration or rescission of the Governor’s proclamation of March 5, 2020, “Declaration of State of Emergency and Existence of Catastrophic Health Emergency – COVID-19.”*

MaCCRA and its members are very sympathetic to CCRC managers and front-line care and service workers as they labor during the coronavirus pandemic with its many challenges. However, residents who have been living and dying, many times alone, in nursing homes or assisted living apartments, should not be deprived of their legal rights or protections even in these most extraordinary times.

Many CCRC operators and managers have developed strong relationships with their residents both in independent living and in the care centers of the communities. They communicate factual information about what is happening, collaborate with the resident leadership, and have developed trust with the people they serve, including family members. That type of management limits their risk for lawsuits.

We are grateful for the actions that providers have taken to keep us safe and in a bubble. As the months have gone on, we have discovered no matter what restrictions are in place, asymptomatic staff and residents can expose us to the virus with the resulting consequences. Negligence is not an issue here if all the guidance from CDC and MDH is followed. We oppose legislation that limits liability for settings caring for older adults.

For these reasons we ask for an unfavorable report on House Bill 508.

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