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SENATE JUDICIARY COMMITTEE

Senate Bill 311: Catastrophic Health Emergencies – Health Care Providers – Definition and Immunity (Maryland Health Care Heroes Protection Act)

FEBRUARY 2, 2021

POSITION: OPPOSE

Thank you for the opportunity to provide testimony on Senate Bill 311: Catastrophic Health Emergencies – Health Care Providers – Definition and Immunity (Maryland Health Care Heroes Protection Act). Disability Rights Maryland (DRM – formerly Maryland Disability Law Center) is the federally designated Protection and Advocacy agency in Maryland, mandated to advance the civil rights of people with disabilities. DRM works to advocate that Marylanders with disabilities are free from abuse, neglect and other rights violations; integrated in their communities; and are supported to live independently and access quality, affordable health care.

This bill would give health care facility employees, agents, and contractors both criminal and civil immunity from accountability for actions and omissions that violate patients' rights during the public health emergency currently in effect and for six months afterwards. This bill goes even further and provides immunity for actions or omissions that are directly *or indirectly* related to the public health emergency. This shield is a dangerous proposal for people with disabilities in health care facilities because it provides no consequences for substandard care such as medical error, patient dumping, or other rights violations including health care rationing and discrimination against people with disabilities and people of color.

Immunity for bad actors sanctions harmful behavior. But liability for substandard care incentivizes facilities to comply with laws and regulations, including the Americans with Disabilities Act and the 2019 Maryland Patient's Bill of Rights, particularly at for-profit institutions. It is especially critical that these facilities do not have carte blanche authority when people with disabilities who currently have little to no protections but the justice system face grievous rights violations. People with disabilities already face visitation restrictions in health care facilities during the public health emergency that may limit their ability to get the support needed to help prevent such bad actions.

Further, immunity places workers and other patients at risk. When health care facilities do not need to comply with reasonable standards, workers and other patients face hazards and increased risks of injury and COVID-19 infection. This proposed legislation undermines the rights of patients with disabilities to safe, respectful, and informed health care during a crisis.

For these reasons, DRM opposes Senate Bill 311.

Respectfully,

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