



Maryland Association for Justice, Inc.

2021 Position Paper

Catastrophic Health Emergencies – Health Care Providers – Definition and Immunity SB 311 – UNFAVORABLE

SB 311 represents an unprecedented – and intolerable – expansion of the already broad immunity that Maryland health care providers currently enjoy during the current catastrophic health emergency.

Hospitals claim that they just want to give their employees peace of mind, but what they really want is immunity from liability for absolutely everything:

Your hospitals and health care heroes must not be distracted by the threat of litigation as you treat patients – *all* patients, not just COVID patients – under these extraordinary conditions.¹

When MAJ suggested a possible alternative that would allow all health care personnel working in hospitals to avoid being named as defendants in litigation for as long as the current catastrophic health emergency continues, MHA turned us down flat.

Even after a year of pandemic, with hundreds of thousands of Americans dead from COVID-19, health care providers are not seeing a large number of lawsuits. According to a “COVID-19 Complaint Tracker” maintained by Hunton Andrews Kurth, an international law firm (<https://www.huntonak.com/en/covid-19-tracker.html>), Maryland hasn’t had a single COVID-related malpractice lawsuit, and just two lawsuits arising from COVID transmission (or fear of transmission): one (1) wrongful death case² and one (1) employment case filed by a physician against the University of Maryland Medical System.³

There is no rational fear of litigation arising from the COVID-19 pandemic, and no need to expand immunity for health care providers, so that they can avoid all responsibility for the consequences of unreasonably unsafe medical care.

**The Maryland Association for Justice respectfully requests
an UNFAVORABLE report on SB 311.**

¹ Letter from Bob Atlas, Executive Director of Maryland Hospital Association (Nov. 1, 2020) (emphasis in original), available online at: <https://myemail.constantcontact.com/MHA-Toward-Better-Health-Newsletter---Protecting-Our-Health-Care-Heroes.html?soid=1102624068989&aid=zHQMCMC5JrPw> (“MHA intends to leverage the remarkable goodwill your hospitals and employees have gained as we advocate for [expanded immunity protection]”).

² *Sivels v. Future Care Cherrywood*, Case No. 03-cv-21-00019 (Cir. Ct. Baltimore County).

³ *Grundmann v. UMMS*, Case No. 1:20-cv-2010 (D. Md.) (defendant allegedly refused to make reasonable accommodations for plaintiff’s immunocompromised status during COVID-19 pandemic).