

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Mary Ellen Barbera
Chief Judge

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 311
Catastrophic Health Emergencies – Health Care Providers –
Definition and Immunity
DATE: January 20, 2021
(2/2)
POSITION: Oppose, as drafted

The Maryland Judiciary opposes Senate Bill 311, as drafted. The bill provides health care providers immunity from civil or criminal liability for any act or omission committed in furtherance of providing or assisting in the provision of health care services resulting from a catastrophic health emergency proclamation, if the health care provider committed the act or omission in good faith, and the act or omission was committed during a catastrophic health emergency or within 180 days after the termination of the catastrophic health emergency. The bill covers any act or omission that is directly or indirectly related to the catastrophic emergency proclamation.

Although the Judiciary has no position on the policy aims of this legislation, the Judiciary is concerned with the bill's statement, at § 14-3A-06(c), that a grant or denial or a motion to apply immunity "shall be immediately appealable." This provision could create some confusion, especially if a motion to apply immunity is granted, because a dismissed case typically would already be appealable under applicable Maryland Rules. The Judiciary believes that this provision in the bill, and particularly the inclusion of the word "immediately", should be reviewed to ensure more clarity.

Finally, the uncodified section two on page two presents ex post facto problems as it appears to eliminate immunity people enjoyed at the time of action.

cc. Hon. Shelly Hettleman
Judicial Council
Legislative Committee
Kelley O'Connor