

July 8, 2020

Senator Benjamin Cardin  
509 Hart Senate Office Building  
Washington, DC 20510

Senator Chris Van Hollen, Jr.  
110 Hart Senate Office Building  
Washington, DC 20510

Dear Maryland Delegation:

I write to urge you to work with your House colleagues to include narrowly tailored liability protections for healthcare facilities into the final version of COVID-19 Phase IV legislation. Maryland's hospitals, urgent care centers, and physician practices are nervous to operate, even while state necessary to do so, because they cannot afford to fend off lawsuits claiming they exposed someone to COVID-19.

Healthcare facilities—despite their already stringent cleanliness standards—worry that they will be unable to treat patients who need “elective” surgeries (which are often for serious conditions such as cancer or heart disease) without liability protections. Doctors and Nurses who follow the strict health guidelines and operate in good faith should not be inhibited during work with the fear of legal action.

Moreover, local primary care practices are already struggling economically from this crisis. The lack of liability protection can be disastrous from primary care practices, an inaccurate lawsuit could extract much-needed resources from a practice that is barely surviving economically. This has a ripple effect; patients who have used the same practice for decades will lose their familiar primary care physician.

There consensus on both sides of the aisle that federal liability protections should only apply to responsible entities. A healthcare facility that fails to act reasonably and prohibits its employees from wearing masks, for example, would not be protected from liability if a patient contracted COVID-19. However, healthcare centers that take safety precautions— such as mandating that employees wear masks and adjusting their operations to help their patients stay at least six feet apart—should not be liable for exposure to COVID-19.

Experts predict that COVID-19 will continue to be a public health threat for at least the next year. Maryland's hospitals, urgent care centers, and primary care practices cannot afford to operate in uncertainty for so long, they need Congress to pass long-term solutions to help them stay open. Maryland has always been able to rely on you to advocate for our citizens, businesses, and institutions, I know you will continue to do so as Congress negotiates the COVID-19 Phase IV relief bill. I again urge you to work across the aisle to pass narrowly tailored protections against liability for COVID-19 exposure. Maryland health facilities that properly follow health guidelines should be able to operate safely without the fear of being sued.

Signed,

Gene M. Ransom III  
CEO MedChi, The Maryland State Medical Society