



Physicians Caring for Texans

March 11, 2021

RE: HB 3, relating to state and local government responses to a pandemic disaster

Dear Representative Burrows,

My name is Debra Patt, MD, and I am an oncologist in Austin. I am also chair of the Texas Medical Association's (TMA's) Council on Legislation. I write to you today representing TMA, an organization of more than 55,000 physician and medical student members. While we have not taken a position on House Bill 3, we ask your consideration of two requests.

First, we ask that HB 3 include the following provision on page 9, between lines 6 and 7, of the committee substitute to ensure all the relevant liability protection available under state and federal law is afforded to physicians and others and not unintentionally limited:

(d) The immunity provided by Section 418A.007 is in addition to other immunity or limitations of liability provided by law.

As you likely know, thousands of lawsuits related to COVID-19 have been filed across the nation since President Trump declared a national emergency on March 13, 2020, which is also the date Governor Abbott issued his first emergency declaration for Texas. As of December 2020, a number of these lawsuits have already been filed in Texas, with more likely to come this year. Physicians are among the targets as medical care providers, business owners, and employers. We want to make sure they, as well as others who have acted in good faith during the pandemic, are able to shield themselves from these litigation attacks with as much liability protection available to them now and also in the future, and to preempt any argument that could negate protection provided by another law. This small addition accomplishes this and affords better protection to physicians and others.

Second, we ask that HB 3 include physicians and health care providers in proposed Section 418A.152, Personnel Surge Capacity Planning, of the committee substitute. Personal protective equipment (PPE) shortage has been devastating to physicians, both in providing care and in keeping their practices viable. Indeed, as just an example, in April of last year we saw 78% of physician practices experiencing and anticipating a lack of PPE. In many areas of the state, some state Regional Advisory Councils unfortunately overlooked private practices as priority recipients of PPE, leaving physicians to salvage whatever PPE they could find to still safely see their patients. Primary care and family physicians are also on the front lines of the pandemic, seeing patients with their first symptoms of COVID-19 and taking care of the mildly and moderately ill – they help mitigate the need for some patients to go to the emergency department,

which in turn helps lessen the burden on needed hospital capacity. It is essential that we make sure our physicians and health care providers are protected with sufficient PPE.

Mr. Chairman, thank you for your consideration of this letter. We appreciate the significance of your work and your efforts to reduce the burdens on our physicians battling COVID-19 on the front lines every day, for over a year now. If you have any questions, please do not hesitate to contact one of the following TMA staff members: Rocky Wilcox, vice president and general counsel, at [rocky.wilcox@texmed.org](mailto:rocky.wilcox@texmed.org) or (512) 656-7880; Kelly Walla, associate vice president and deputy general counsel, at [kelly.walla@texmed.org](mailto:kelly.walla@texmed.org) or (512) 799-4488; Laura Thetford, associate general counsel, at [laura.thetford@texmed.org](mailto:laura.thetford@texmed.org) or (512) 370-1344; or Dan Finch, vice president, advocacy, at [dan.finch@texmed.org](mailto:dan.finch@texmed.org) or (512) 762-3115; mailing address: 401 W. 15th Street, Austin, TX 78701.

Sincerely,

A handwritten signature in black ink, appearing to read 'Debra Patt', with a long horizontal flourish extending to the right.

Debra Patt, MD  
Chair, Council on Legislation  
Texas Medical Association