

CHAPTER LOGO

DATE

ADDRESS

RE: Limitation of liability for health care workers and emergency responders

Dear Governor/Lt. Governor

CHAPTER NAME is writing on behalf of more than XXXX diagnostic radiologists, interventional radiologists, radiation oncologists, nuclear medicine physicians and medical physicists to ask you to reduce the risk of legal liability faced by health care workers and emergency responders during the COVID-19 pandemic.

Legal liability remains a significant obstacle for those considering how to best lend their services or alter their practices to assist in this fight. Although many liability protections exist for volunteers on state and federal levels, these enhanced protections do not apply to most paid physicians. We strongly urge you to implement additional legal safeguards to protect health care workers and emergency responders as they perform the live-saving work to battle COVID-19 and future infectious disease outbreaks.

The pandemic is rapidly altering the provision of health care services, based on guidance and recommendations from the Centers for Disease Control and Prevention, Department of Health and Human Services, and other federal, state, and local government directives. Although necessary, these measures have raised serious concerns about their potential effect on legal liability risks assumed by physicians and other clinicians who follow them. Examples include,

- Suspension of most elective in-person visits and replacing them with virtual visits to the extent possible as requested by the CDC and other public health authorities;
- Providing treatments or care outside their general practice areas and for which they may not have the most up-to-date knowledge;
- Coming out of retirement to alleviate workforce shortages related to the COVID-19 pandemic;
- Inadequate supplies of safety equipment that could result in the transmission of the virus from patient to physician and then to additional patients, or directly from one patient to another;
- Shortages of equipment, such as ventilators, that can force facilities and physicians to ration care;
- Inadequate testing that could lead to delayed or inaccurate diagnosis; and
- Delays in treatment for patients with conditions other than coronavirus.

In these and other scenarios, physicians and other clinicians face the threat of medical liability lawsuits from circumstances beyond their control. Such lawsuits can come months or even years after incidence of care and after the public memory of their sacrifices has been forgotten.

The U.S. Congress has already acknowledged that liability is a significant impediment to physicians and other clinicians. In section 3215 of the recently enacted CARES Act, Congress included important liability protections for health care volunteers who respond to the COVID-19 crisis. Also, Congress has passed laws that provide various liability protections for physicians and other clinicians who volunteer or who provide health care services under certain, limited circumstances, including the Public Readiness and

Emergency Preparedness Act (PREP Act), the Volunteer Protection Act of 1997, and section 194 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Given the enormity of the COVID-19 crisis, however, we strongly urge you to consider broader state liability protections for physicians, other clinicians and the facilities where they practice. Stronger protections are needed to recognize their heroic, non-stop efforts to treat COVID-19 under unprecedented conditions. For example, **NAME OF STATE** could follow the example of New York State by extending broad civil immunity to physicians and other clinicians for any injury or death alleged to have been sustained directly as a result of an act or omission in the course of providing medical services in response to the COVID-19 pandemic, with exceptions for gross negligence or willful misconduct.

CHAPTER NAME would welcome the opportunity to work with other stakeholders to further develop these concepts or consider other options that will achieve the goal of ensuring that our physicians and other clinicians can focus on the medical challenge of diagnosing and treating COVID-19 without the threat of lawsuits.

Sincerely,

CHAPTER PRESIDENT NAME
SIGNATURE

cc: Governor/Lt. Governor

Governors' contact information <https://www.nga.org/governors/directories/>

Lieutenant Governors' contact information <https://nlga.us/lt-governors/>