

# COVID-19 LIABILITY PROTECTIONS

Health care has faced unique and unprecedented challenges during the COVID-19 pandemic. Additional liability protections are needed so providers can continue to focus on patients, not lawsuits.

## Why is liability exposure a concern during the COVID-19 emergency?

- During the COVID-19 emergency, many industries have been forced to rapidly adjust their business practices and procedures on a continual basis in response to the evolving and fluid nature of the emergency while still providing safe and high-quality essential services.
- The dramatic shifts in operations that are required in midst of an uncertain and chaotic environment can create increased liability exposure for businesses, including healthcare providers, due to unforeseen circumstances often beyond their control.
- Health care has faced unique and unprecedented challenges during COVID-19 while serving on the front lines in the fight against a new virus about which much is still unknown. A few of these challenges include:
  - Equipment shortages;
  - Constantly changing and often conflicting recommendations and guidance for prevention and treatment of the virus;
  - Reconfiguring facilities and maintaining staffing amid mandatory quarantines; and
  - Temporary mandates to cease all non-urgent, non-emergent in-person healthcare services, including preventative and diagnostic procedures, the full impact of which will not be known for some time.

## How will Senate Bill 5 help Kentuckians?

- Senate Bill 5 provides liability protections for physicians and hospitals providing essential services by ensuring providers will receive immunity when complying in good faith with the various and ever-changing treatment guidelines.
- Senate Bill 5 is specifically designed to balance the interest of all stakeholders by providing immunity to those performing essential services in extremely unusual circumstances while protecting the public from "wanton, willful, malicious, grossly negligent or intentional misconduct."
- Senate Bill 5 is narrowly written to protect only against liability alleged for injuries associated with COVID-19 and does NOT address non-COVID-19 related liabilities.
- Senate Bill 5 ensures continued access to courts while protecting essential businesses and healthcare workers so Kentucky can successfully and safely get back to work.

## Why is it critical to pass Senate Bill 5 in 2021?

- Previous emergency liability legislation did not provide adequate protections against lawsuits resulting from often unavoidable outcomes due to the current pandemic. Senate Bill 5 recognizes the shifting legal environment in which businesses must now operate and provides safeguards to protect against new or increased liabilities for those performing essential services.
- The impact of actions taken during the pandemic will not end simply because the state of emergency has expired. Senate Bill 5 extends liability protections to one year after the COVID-19 emergency declaration ceases.
- Senate Bill 5 helps ensure healthcare providers can continue to perform the essential and life-sustaining services required of them without fear that their good-faith efforts will result in a lawsuit.
- Many states across the country have already acted on meaningful COVID-19 liability protections including the surrounding states of Ohio, Illinois, Tennessee, and Virginia. Senate Bill 5 will help protect Kentucky businesses and keep our state competitive.
- Senate Bill 5 has broad support from organizations representing thousands of healthcare providers and businesses from nearly every industry in the state.

**Support Senate Bill 5 to ensure meaningful COVID-19 liability protections for healthcare and other industries providing essential services in the Commonwealth!**

