

Massachusetts Senate approves legal protections for health workers

By Katie Lannan

State House News Service

A bill that hospital representatives said would provide urgently needed new legal protections to health care professionals working in unprecedented situations during the COVID-19 crisis passed the state Senate on Thursday.

Based on legislation Gov. Charlie Baker filed last week, the bill (S 2640) would give health care professionals immunity from lawsuits and civil liability for alleged damages related to COVID-19, as long as they provided services in good faith and the damages were not caused by gross negligence, recklessness or an intent to harm or discriminate.

Volunteer organizations providing use of their facilities would also receive similar immunity, according to a Senate Ways and Means Committee summary.

Kate Walsh, the president and CEO of Boston Medical Center, said in testimony to the Financial Services Committee, that the need for the bill “is days away.”

“We hope to see this bill pass as soon as possible in its current form to ensure that Massachusetts healthcare professionals have confidence that they will be protected from personal liability while making extraordinary contributions under the most challenging circumstances [of] our lifetimes,” Walsh wrote.

The Massachusetts Health and Hospital Association characterized it as “essential” that the bill become law

“immediately to ensure that Massachusetts healthcare professionals are confident as they work through overwhelming challenges and patient surges.”

Sen. James Welch, a West Springfield Democrat who chairs the Financial Services Committee with Rep. James Murphy of Weymouth, said the bill was one that needed “quick action” and the committee would try to “live up to that responsibility.”

When he filed the bill, Baker said in a message to lawmakers that he “cannot overstate the urgency of enacting this legislation.” He said it would provide “critical protections” for the health care workers staffing new field hospitals set up in “facilities that are not contemplated under traditional standards of care but that are absolutely required to expand our health care system’s capacity in this time of crisis.”

Those field hospitals include the DCU Center in Worcester and the Boston Convention and Exhibition Center in South Boston.

Baker filed the bill on April 8, and, in lieu of an in-person hearing, the Financial Services Committee accepted emailed testimony on the bill through Monday. The panel advanced a version of the legislation to the Senate Ways and Means Committee, which redrafted and endorsed it Thursday morning.

“We want to make sure that our health care professionals who are going above and beyond what they normally do, which is a lot, that they don’t have something hanging over their head,” Welch told the News Service. “We as a commonwealth, that’s probably the least we can do on their behalf to help them focus on their work and help people navigate through some very difficult times.”

The bill cleared the Senate on a voice vote. Before passing it, senators rejected an amendment from Sen. Sonia Chang-Diaz that sought to address the state’s crisis standards of care, a set of voluntary Department of Public Health guidelines intended to help hospitals determine how to allocate scarce

resources during the pandemic.

Groups including the Massachusetts Black and Latino Legislative Caucus, of which Chang-Diaz is a member, have raised concerns that the guidelines could disadvantage people of color who need treatment.

Chang-Diaz's amendment would have required the DPH "to consult with the Massachusetts affiliates of the National Medical Association and the Hispanic Medical Association, the NAACP New England Area Council, the Disability Law Center, and the Massachusetts Coalition for Health Equity" and issue revised standards by April 24 that "consider the social determinants of health and documented racial and ethnic health disparities in comorbidities such as, but not limited, to heart disease, diabetes, and asthma."