

“Your Nevada Doctors” Issue Briefing

Nevada’s Access to Care Problem

- Per 100,000 population, Nevada ranks 45th for active physicians, 48th for primary care physicians and 50th for general surgeons. Any changes to laws, rules, regulations that impact physicians’ ability to deliver care to Nevadans must be avoided.
- Protecting doctors from the impact of outsize legal judgements and predatory litigation provides a favorable environment for the practice of medicine in Nevada and increases patient access to care.

The “Fiduciary Duty” Issue

- The legal theory of “fiduciary duty” is absent from much of the recent press surrounding health care in Nevada, but its application has created one of the biggest threats to Nevada patients access and availability of care.
- The State of Nevada currently has a cap on noneconomic damages in medical malpractice cases of \$350,000. The majority of Nevada voters approved this measure by statewide referendum in 2004 as a measure to protect their ability to receive care from a doctor from the impact of outsize legal judgements and predatory litigation.
- However, under the theory of “fiduciary duty”, Nevada courts have sidestepped the intent of voters and expanded the legal liability of an individual doctor found liable for malpractice to include his employer or those he may be contracted with to provide care.
- “Your Nevada Doctors” is proposing simple language to close this “loophole” currently existing, as it is not specifically allowed under NRS and is at odds with the strict wording of the 2004 ballot initiative.

YND Coalition Background

- “Your Nevada Doctors” was formed in 2020 to carry on the work begun by “Keep Our Doctors in Nevada”, including the successful 2004 ballot initiative to set a hard cap on noneconomic damages in cases of medical malpractice.
- The coalition was expanded and rebranded as “Your Nevada Doctors” to emphasize both the unique relations patients have with their doctors as a trusted advisor and advocate, and to rebrand as a broader, more diverse advocacy group to work on the fiduciary duty issue as well as work on broader issues of access to and availability of health care.
- The group was launched at the height of Nevada’s exposure to the COVID-19 pandemic with a public service media campaign featuring local doctors encouraging Nevadans to wear masks to protect themselves and their community from the spread of COVID-19.
- Any move to radically adjust or alter the current laws will had a major impact on Professional Liability Insurance in our state, leading to a crisis in access to and

availability of healthcare for Nevadans. Currently Nevada ranks 47th across the United States for the number of overall physicians per 100,000 population.*. Any radical changes to the law would jeopardize the ability to recruit much needed physicians to our state.

- Our coalition has united to oppose any such radical change and advocate on behalf of patients and the provider community.

*According to Health Care in Nevada Statistics and Rankings from the Legislative Counsel Bureau

- “Your Nevada Doctors” has retained R&R Partners to represent them in the 2021 Legislative Session.

Coalition Actions to Date

- Beginning in late 2020 “Your Nevada Doctors” engaged in talks with representatives of Nevada’s trial lawyer community to discuss a potential cooperative approach during the 2021 legislative session. Although conducted in good faith, both groups were unable to reach a compromise solution.
- There was no proposed solution that did not open members of Nevada’s health care community to further liability at odds with the intent of the 2004 cap, and at the same time no proposed solution helped maintain Nevada patients’ access to care or increase the accountability or standards currently on Nevada’s health care providers.
- “Your Nevada Doctors” will continue to brief and work with legislators and all stakeholders to broaden awareness of this issue, and the threat to the access and affordability of healthcare that could ensue.