



AMERICAN OSTEOPATHIC ASSOCIATION

TREATING OUR FAMILY AND YOURS



February 14, 2017

The Honorable Ann Rivers
Chairwoman
Washington State Senate Health Care Committee
466 J.A. Cherberg Building
PO Box 40466
Olympia, Washington 98504

Dear Chairwoman Rivers:

The American Osteopathic Association (AOA) and the Washington Osteopathic Medical Association (WOMA) are writing to encourage you to support SB 5800. This bill requires mental health care providers take reasonable precautions to provide protection from a patient's violent behavior only if the patient has communicated an actual threat of physical violence to a reasonably identifiable person. The AOA and WOMA believe that this bill balances the need to protect public safety without creating a chilling effect on providers' willingness to deliver services to mental health patients or their ability to freely counsel and protect the confidentiality of such patients.

The AOA represents nearly 130,000 osteopathic physicians (DOs) and osteopathic medical students, promotes public health, encourages scientific research, serves as the primary certifying body for DOs and is the accrediting agency for osteopathic medical schools. More information on DOs/osteopathic medicine can be found at www.osteopathic.org. WOMA is a professional medical organization that represents nearly 1,500 DOs providing patient care in Washington.

SB 5800 is a response to the Washington State Supreme Court decision in *Volk v. De Meerleer*, which significantly broadened the duty that mental health providers have to protect and warn by extending the duty to "any possible victim" of a patient under their care - even one that has not been specifically identified by the patient.¹ *Volk* also created a new cause of action for "medical negligence" which renders providers liable if a jury decides that that they "should have known" that a patient could be dangerous to the general public.²

The AOA and WOMA believe that it is vital that physicians be able to communicate freely with patients without fear of government intrusion in order to assure safe, comprehensive and effective medical treatment. Holding mental health providers liable to third-party victims who were not identified as targets of actual threats places an unreasonable burden on providers. It may inhibit patients from seeking help or from communicating openly and receiving appropriate care. Concerns

¹ See <http://law.justia.com/cases/washington/supreme-court/2016/91387-1.html>.

² *Id.*

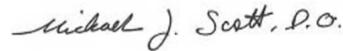
about potential liability could lead to a decline in the number of mental health providers willing to provide care to some of Washington state's neediest patients.

SB 5800 balances the state's obligation to protect the public with its need to maintain an adequate number of mental health care providers and the desire for patients to communicate freely with their health care provider in order to receive appropriate treatment. **The AOA and WOMA encourage you to protect access to mental health services in Washington by supporting SB 5800.** Should you need any additional information, please feel free to contact Nicholas Schilligo, MS, Associate Vice President, State Government Affairs, at nschilligo@osteopathic.org or (800) 621-1773, ext. 8185.

Sincerely,



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President, AOA



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