



AMERICAN OSTEOPATHIC ASSOCIATION

TREATING OUR FAMILY AND YOURS



March 21, 2017

The Honorable Laurie Jenkins
Chairwoman
Washington State House Judiciary Committee
308 John L. O'Brien Building
PO Box 40600
Olympia, Washington 98504

Dear Chairwoman Jenkins:

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 to 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.

The Washington State Supreme Court decision in *Volk v. De Meerleer*:

- **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
- **Created a new cause of action for “medical negligence” which renders providers liable** if a jury decides that they “should have known” that a patient could be dangerous to the general public.²

The need to reevaluate *Volk v. De Meerleer*:

- **Providers should be able to communicate freely with patients** without fear of government intrusion **in order to assure safe, comprehensive and effective medical treatment.**

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

² *Id.*

- **Creating liability for mental health providers to third-party victims who were not identified as targets of actual threats places an unreasonable burden on providers.**
- **Patients may be inhibited from seeking mental health care** or from communicating openly and receiving appropriate treatment.
- **Concerns 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.

This bill 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



Michael J. Scott III, DO
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