

March 28, 2023

To: Jamie Becker-Finn, Chair, House Judiciary Policy & Finance Division
CC: Committee on Judiciary Policy & Finance Division

On behalf of the coalition of organizations below, we would like to express our significant concern with inclusion of Article 1, sections 17-19 as it relates to continuing a cause of action after death. While we appreciate that the committee and bill supporters have amended the measure to limit causes to three years after death and six years after date of injury, this window of time is still problematic.

We can recognize that Minnesota should allow claims initiated before death should carry forward; the question before the Legislature is two-fold: what is the reasonable amount of time that heirs can continue that claim, and equally important, what is a reasonable length of time that is fair to all parties and the judicial process itself for a claim to be initiated after a plaintiff's death? Other states have statute limitations, evidentiary standards and limitations of recoveries that collectively support a narrower statute of limitations than the three and six years provided in this bill. We will continue working with bill proponents to address our concerns as this moves to the next stop in the process.

As we have testified to before, under current Minnesota law governing wrongful death actions, family members may pursue claims for their own financial loss which includes economic loss and their loss of aid, comfort and society, but cannot recover damages for the decedent's pain and suffering. Advocates supporting changes to this law are quick to say that Minnesota is one of just a few states that do not allow this type of a claim to "survive." It is important to note, however, that while a decedent's pain and suffering is compensable in 41 jurisdictions, the vast majority of states have addressed this issue through their respective court systems, rather than their legislature. In most states, protections are built into the system such as high evidentiary standards, limiting the recovery to 'pending claims' or legislatively-imposed caps on damages.

We are within three years of a pandemic that has had a profound impact on providers across the continuum. Minnesota has never rewarded people who have not been directly injured with money for another person's claims. Survivorship proposals will negatively impact every industry in the State by drastically expanding tort claims – potentially impact anyone who can be sued for wrongful death or personal injury:

- Municipalities
- Schools
- Hospitals
- Nursing Homes
- Physicians
- EMS Providers
- Transportation companies or companies with fleets
- Manufacturers
- Utilities
- Retail and hospitality
- Contractors
- Those who develop or sell products

Collectively we represent thousands of businesses and health care providers that would be adversely impacted by changing the survivorship law. Expanding tort claims and giving money to individuals who have not been injured will have a NEGATIVE EFFECT on industries as dollars will go to increased

lawyer fees for litigation claims as well as increased insurance premiums rather than improving care or providing services.



A Minnesota Collaboration for Changes in Older Adult Services



