

MedChi

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TO: The Honorable Brian E. Frosh, Chairman
Members, Senate Judicial Proceedings Committee
The Honorable Ed DeGrange

FROM: Joseph A. Schwartz, III
Pamela Metz Kasemeyer
J. Steven Wise

DATE: March 19, 2013

RE: **SUPPORT** - Senate Bill 819 – *Maryland Contributory Negligence Act*

The Maryland State Medical Society (MedChi), which represents over 7,500 Maryland physicians and their patients, supports Senate Bill 819.

Senate Bill 819 establishes the legal rule of “contributory negligence” in the event it is abrogated by the Maryland Court of Appeals. MedChi believes that a traditional tort rule such as the doctrine of contributory negligence is the exclusive province of the General Assembly to alter.

This bill is a response to a case before the Court of Appeals which may result in a reversal of the doctrine of contributory negligence. Interestingly, the case before the Court of Appeals (Coleman v. Soccer Association of Columbia) is a single defendant case so the issues of “joint and several” liability will not be addressed in that case.

One cannot reasonably construct sensible public policy with respect to contributory negligence unless the issue of joint and several liability is also addressed. While the alteration of contributory negligence rule could allow a partially negligent plaintiff to recover a judgment or award, the failure to similarly amend the joint and several liability doctrine would mean that a partially responsible defendant could be liable for the entire verdict or judgment against all defendants. Because the Court of Appeals case involves a single defendant, there will be no alteration of the joint and several liability rule even though there may well be an alteration of the contributory negligence rule. Such a piecemeal rewrite of Maryland law is inadvisable for many reasons.

MedChi would ask for a favorable report on Senate Bill 819.

For more information call:

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