



STRENGTHEN MEDICAL LIABILITY REFORM

Background: Trial lawyers regularly attempt to increase the cap on damages in medical malpractice cases and to make other changes to the legal environment. This includes abolishing the defense of contributory negligence. Over the last two years, this issue had heightened visibility in Maryland's courts. In 2013, Maryland Court of Appeals (our Supreme Court) considered a case that could have led to a repeal of the contributory negligence law. In a split decision, the Court declined to repeal the contributory negligence but in doing so had positioned the issue for legislative action. In addition, several high profile obstetric cases over that same time period resulted in multi-million dollar verdicts against hospitals. The possibility of these decisions continues to cause a number of hospitals to consider closure of obstetrics units.

The Problem: While Maryland has a cap on non-economic damages in medical malpractice cases, it is one of the most liberal in the nation and increases each year by \$15,000. The Trial Lawyers Association has previously proposed legislation to restrict a doctor's use of expert witnesses in a malpractice cases even where witness' testimony would be crucial to a defense. The closure of labor and delivery units due to large malpractice verdicts in obstetric cases could result in significant loss of access to care for pregnant women and their babies.

The Solution: Oppose legislation which would eliminate the contributory negligence defense as well as legislation which would abolish the present rules relating to expert witnesses or increase the cap in malpractice cases. Support legislation that would establish a pilot project for health courts.

What to Do: Call/write/e-mail members of the Senate Judicial Proceedings Committee and the House Judiciary Committee and ask them to pay particular attention to bills which will aggravate the present medical malpractice environment as well as those that will improve access to care by creating alternative approaches to addressing certain malpractice issues such as obstetrics currently handled through the tort system.