

OPPOSE WEAKENING MARYLAND'S MEDICAL LIABILITY ENVIRONMENT

History of Maryland's Law:

- In 1986, the General Assembly implemented a cap on non-economic damages based on the recommendations of a Governor's Task Force. Non-economic damages are awarded to plaintiffs to compensate them for pain and suffering. They are in addition to actual damages (compensation for medical bills, loss of wages, etc.) and punitive damages (compensation for malicious intent). The Task Force noted that *"a cap on allowable pain and suffering awards will help reduce the incidence of unrealistically high liability awards, yet at the same time protect the right of the injured party to recover the full amount of the economic loss, including all lost wages and medical expenses."*
- In 2004, in response to rising medical professional liability insurance rates, the General Assembly enacted a separate cap on non-economic damages in medical malpractice cases, which included an automatic annual escalator of \$15,000. As a result of rising premium costs, physicians were limiting services (particularly in obstetrics), moving out of the State, or retiring. The loss of physicians in the State created a serious risk to public health and safety. Immediate relief in the form of the cap was needed to maintain access to health care providers and services.
- In 2023, the adjusted cap for medical malpractice causes of action has now reached \$875,000. For wrongful death medical malpractice claims involving two or more claimants or beneficiaries, the total amount awarded is limited to 125% of the cap, or \$1,093,750.

Maryland's Cap Effectively Controls Costs and Protects the Injured Party:

- Maryland's cap is one of the highest in the nation at \$875,000, and it increases by \$15,000 every year. Maryland is one of only seven states that have an automatic escalator to account for inflation, negating the need to change or remove the cap.
- Research indicates that caps on non-economic damages lead to improved access to care for patients, constrained medical liability premium growth, lower claim frequency, reduced average claim payments, and lower health care costs.
- Maryland's health care environment is in a precarious state. Workforce shortages, including physician shortages, are negatively impacting the delivery of care, especially in the rural areas and in certain specialties, such as primary care. Any actions to modify Maryland's medical liability environment could have the effect of driving physicians into retirement or away from practice, exacerbating shortages and causing increased delays in receiving care.

The Solution:

- MedChi will *oppose* measures that: 1) raise or remove the cap on non-economic damages in medical malpractice cases; or 2) lower the standard for awarding punitive damages so that the threshold would apply in more cases, including medical malpractice cases.

What to Do:

- Call or e-mail your legislators and committee members to ask them to oppose any bills which would change the present medical malpractice environment. Find your legislators at [Members - Find My Representatives \(maryland.gov\)](https://www.maryland.gov/members/find-my-representatives).
- For contact information on members of the Senate Judicial Proceedings Committee and the House Judiciary Committee, contact Chip O'Neil at coneil@medchi.org.