

# MedChi

*The Maryland State Medical Society*

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TO: The Honorable Joseph F. Vallario, Jr., Chairman  
Members, House Judiciary Committee  
The Honorable Jeffrey Waldstreicher

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

DATE: February 24, 2010

RE: **OPPOSE** – House Bill 622 – *Health Care Malpractice – Noneconomic Damages*

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The Maryland State Medical Society (MedChi), which represents over 7,200 Maryland physicians and their patients, opposes House Bill 622.

House Bill 622 undoes one of the principal reforms from the 2004 Special Session on Medical Malpractice which legal changes became effective January 2005. Specifically, the bill increases the “cap” on noneconomic damages in wrongful death cases from its present level (a maximum of 125% of \$665,000) to the level which was in place prior to 2006 (a maximum of 250% of \$665,000). Additionally, it increases the “cap” from its present level of \$665,000 to \$710,000. MedChi would respectfully suggest that this is going in the absolute wrong direction, particularly when other states, including neighboring West Virginia, have just enacted a \$250,000 cap.

It is well known to the health committees of the General Assembly that there is a “shortage” of physicians in Maryland. This shortage is felt particularly in rural areas but is predicted to be in all areas by the year 2015. It appears that the principal reasons for the present and growing shortage of physicians is the combination of low reimbursement rates and high practice expenses, particularly the cost of malpractice insurance. Indeed, primary care doctors have an extraordinarily high malpractice insurance cost as a percentage of their practice income. While the 2004 medical malpractice debate focused on the cost of OB/GYN insurance, primary care doctors with a lower premium where in  
The Honorable Joseph F. Vallario, Jr., Chairman

just as dire straights as the “OB/GYN” because of low reimbursement rates.

Since the 2004 Special Session, malpractice rates have stabilized but remain at historically high levels. For example, the base rate for a Baltimore area OB/GYN in 2002 was \$59,331 per year, the base rate today is \$100,723. The base rate in 2002 for a Baltimore area internist who performed no surgery was \$8,059; today it is \$13,648. The above rates are those offered by Medical Mutual and assume the doctor is receiving a “dividend”.

The Maryland Health Care commission has reported that Maryland physicians are in the lowest 25% in the nation with respect to reimbursement. Older Maryland physicians are retiring earlier; younger physicians, even those trained in Maryland, are starting practice elsewhere. Indeed, the two “growth” states with respect to physicians are Texas and West Virginia which have recently enacted substantive malpractice reform including a \$250,000 “cap” on noneconomic damages. The \$250,000 “cap” has been law in California since 1976.

The effectiveness of “caps” in restraining malpractice costs is well documented. See a report published by the American Medical Association entitled: “Policy Research Perspectives – The Impact of Liability Pressure and Caps on Damages on the Healthcare Market: An Update of Recent Literature” at:

<http://www.ama-assn.org/ama1/pub/upload/mm/363/prp2007-1.pdf>.

Since the Maryland malpractice “cap” was stabilized in January of 2005, Maryland malpractice rates have also stabilized. This is surely a positive development and it is a reform that should be continued.

MedChi would respectfully urge a unfavorable report on House Bill 622.

**For more information call:**

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