

# MedChi

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TO: The Honorable Brian E. Frosh, Chairman  
Members, Senate Judicial Proceedings Committee  
The Honorable Jamie Raskin

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

DATE: February 19, 2013

RE: **SUPPORT** – Senate Bill 771 – *Postjudgment Interest – Medical Injury*

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The Maryland State Medical Society (MedChi), which represents over 7,500 Maryland physicians and their patients, supports Senate Bill 771.

The purpose of Senate Bill 771 is to reduce the current legal rate of interest on a money judgment for a medical injury from 10% per annum to the greater of the bank prime rate or 3% per year.

The current rate (10% per year) is at least 50 times what a Maryland bank or Maryland credit union is currently paying on savings deposits. In the last year, extraordinarily large awards have been reported against Maryland hospitals and medical malpractice awards tend to be substantial. A doctor or hospital faced with such an award would consider the 10% per annum interest rate in determining whether to pursue an appeal or settle the case. The current legal rate of interest is so high that it may discourage a legitimate appeal.

For almost 40-years the General Assembly has paid special attention to medical injury cases as there have been three separate crises with respect to medical malpractice insurance. The first occurred in the mid-1970s and resulted in the forerunner of the current health claims arbitration system and the creation of the Medical Mutual Insurance Company; the second occurred in the mid-1980s and resulted in the creation of the cap on non-economic

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damages; the third occurred within the last 10 years and resulted in a Special Session of the Legislature and the implementation of an HMO tax to moderate physicians' malpractice premiums and changes to the medical malpractice system. For the last few years there has been relative stability.

Critics might suggest that lowering the legal rate of interest for medical malpractice cases is not legally permissible. However, there are multiple rules that apply only to medical malpractice cases in Maryland and the Legislature surely has the authority to make such distinctions and courts would normally uphold such differences if the Legislature had a "rational basis" for making the distinction. Of course, an easier answer might be to reduce the legal rate of interest in all cases. Indeed, the criticism of the legal rate of interest made in medical injury cases applies with equal force to the use of the current legal rate in any case. Senate Bill 771 provides a more realistic rate of interest that will rise and fall as determined by economic forces.

MedChi would urge a favorable report on Senate Bill 771.

**For more information call:**

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