

## **2018 KEY LEGISLATIVE ISSUES**

### **OPPOSE WEAKENING MARYLAND'S MEDICAL LIABILITY ENVIRONMENT**

**The Problem:** Trial lawyers continue to advocate for measures that would weaken Maryland's current medical malpractice laws. These include:

- Removing the non-economic damage cap in medical malpractice cases for catastrophic injuries. Maryland's cap remains one of the most liberal in the nation and increases each year by \$15,000. For causes of actions arising in 2018, the cap will be \$800,000. Removing the cap for catastrophic injuries is simply a subterfuge for elimination of the cap in its entirety.
- Abolishing the defense of contributory negligence. The defense of contributory negligence takes into account the actions of the plaintiff in determining liability. In 2013, the 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, positioned the issue for legislative action.
- Eliminating the 20% rule for expert witnesses. The current law precludes as an expert a person who devotes annually more than 20 percent of their professional activities to testifying in personal injury cases.
- Revising the standards for how punitive damages may be applied and in what type of cases.

**The Solution:** Oppose legislation to: 1) remove the cap on non-economic damages in medical malpractice cases; 2) abolish the defense the contributory negligence; and 3) eliminate the 20% rule for expert witnesses. At the same time, support measures to address "crisis areas" and ensure that medical malpractice cases are adjudicated in the most efficient manner. Measures include:

- Establishing a "Birth Injury Fund" for obstetrics cases.
- Extending the noneconomic damages cap to physician assistants and other health care practitioners.

**What to Do:** Call/write/e-mail members of the Senate Judicial Proceedings Committee and the House Judiciary Committee to ask them and ask them to oppose bills which will aggravate the present medical malpractice environment and support those that will improve access to care by creating alternative approaches to addressing certain malpractice. Contact MedChi for legislative contact information.