

2017 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 2017, the cap will be \$785,000. 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.
- Restricting a physician's use of expert witnesses in a malpractice case even where witness' testimony is crucial to a defense.
- Revising the standards for how punitive damages may be applied and in what type of cases. This issue is being debated in a workgroup convened by the House of Delegates in the General Assembly. It is too early to determine if any changes will be recommended by the group.

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) restrict the use of 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.
- Allowing hospitals to develop Patient Safety Intervention Programs without fear of reprisal.

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.