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March 5, 2020

The Honorable Delores Kelley
Chair, Senate Finance Committee
Mille Senate Office Building
Annapolis, MD 21401

Senate Bill 879 – Public Health – Maryland Infant Lifetime Care Trust Funded by HSCRC and Maryland Patient Safety Center Duties

Dear Chairman Kelley,

The League of Life and Health Insurers of Maryland, Inc. (the League) is the State's trade association representing life and health insurance companies doing business in Maryland. The League recognizes the important public policy issues that Senate Bill 879 – Public Health – Maryland Infant Lifetime Care Trust Funded by HSCRC and Maryland Patient Safety Center Duties seeks to address.

While the League does not oppose an attempt to create a Maryland Infant Lifetime Care Trust (Trust) in the State and certainly acknowledges that hospitals as self-insured entities have significant challenges related to the insurability of the market, the League has significant concerns with the funding mechanism as structured under the Senate Bill 879. The bill places the burden of providing ongoing revenue to maintain the Fund on the State's all payor rate setting system. The bill requires the Health Services Cost Review Commission (Commission) to assess a fee on all hospitals that charge for acute obstetrics, neonatal intensive care unit, newborn nursery, premature nursery and normal newborn, or labor and delivery services whose rates have been approved by the Commission to pay for funding the Trust. Though a fee on these hospitals, in reality the cost of the Fund is ultimately paid by rate payors (commercial insurers, Medicaid and Medicare). As a result, the costs of the Fund are fully passed on by the hospitals and *not borne by hospitals themselves*. Under the bill, there is no cap on the amount of funding that may be required and passed on through the rate setting system. Further, there is no ability for the Commission to limit the exposure of rate payors. The Commission is directed to pass the entire cost on- with no ability to protect Maryland rate payors from untenable cost increases. This unlimited cost will ultimately be passed on to each purchaser of health insurance through premium increases, the State budget through Medicaid and the federal government through Medicare. This is of significant concern to the member companies of the League.

The funding also lacks clear accountability measures. If health insurance carriers and other payors in the State are required to support the Trust financially, it is important that the Trust require improvements by hospitals and providers be achieved, and that the Trust demonstrate that it does, in fact, stabilize costs. Such accountability would be required to protect the rate paying public who are bearing the cost of the Trust.

In our opinion, this proposed bill is attempting to shift payment responsibility from the medical provider who committed the wrongful act to the health insurance companies (and thus to the individual insureds through increased premiums). It creates a mechanism whereby the health insured will subsidize the negligent acts of the medical tortfeasor. In an environment of rising health insurance premiums, such legislation would have an even greater adverse impact.

For these reasons, the League respectfully requests that if the Committee chooses to move forward with this legislation, you either 1) spread the costs for the Trust amongst stakeholders beyond rate payors and places a cap on the rates, or 2) adopt an alternate funding mechanism that does not raise the issues identified here.

Thank you for the opportunity to share these concerns with you regarding Senate Bill 879.

Very truly yours,

A handwritten signature in black ink, appearing to read "Matthew Celentano", with a long horizontal line extending to the right.

Matthew Celentano
Executive Director

cc: Members, Senate Finance Committee