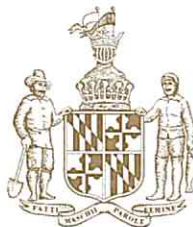


SENATOR DELORES G. KELLEY
Legislative District 10
Baltimore County

—
Chair
Finance Committee

—
Executive Nominations Committee
Rules Committee
Legislative Policy Committee



Miller Senate Office Building
11 Bladen Street, Suite 3 East
Annapolis, Maryland 21401
410-841-3606 · 301-858-3606
800-492-7122 Ext. 3606
Fax 410-841-3399 · 301-858-3399
Delores.Kelley@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

TESTIMONY OF SENATOR DELORES G. KELLEY

**REGARDING SENATE BILL 879 - PUBLIC HEALTH - MARYLAND INFANT LIFETIME
CARE TRUST FUNDED BY HSCRC AND MARYLAND PATIENT SAFETY CENTER
DUTIES**

BEFORE THE SENATE FINANCE COMMITTEE

ON MARCH 5, 2020

Good afternoon fellow Members, I am here to introduce Senate Bill 879 Public Health - Maryland Infant Lifetime Care Trust Funded by HSCRC and Maryland Patient Safety Center Duties. This is a new, common-sense approach that is right for the families, for infants, and for Maryland. Permanently funded through assessments on hospitals, the Trust would provide guaranteed lifetime care for infants born with neurological injuries, and this is a better way than our current system. Our current system fails to guarantee care for the most vulnerable infants and leads to rising health care costs that impact all Marylanders. The Trust turns today's guess—a lump sum payment that may or

may not be sufficient—into a guarantee of lifetime care directed by the family's own chosen physician. If a mistake has been made, hospitals remain accountable to those families. A family's right to a jury trial would remain unchanged.

The Trust would pay not only for medical treatment but also for other expenses necessary for the lifetime care of the child. It would pay for transportation costs, physical, behavioral and specialty therapies, and other services that a family and their chosen doctor deem is necessary. And it would also pay for vehicles or home modifications. And, the Trust would lead to savings in Maryland's Medicaid system. Maryland's Medicaid system would no longer be responsible for paying for the care of these children. Under the current system, Medicaid is often financially responsible for the medical care of children born with neurological injuries. Under this proposal, the Trust would pay for all care currently covered by Medicaid, and would cover care and services that are currently not allowed to be paid for by Medicaid. Benefits from the trust

include:

- **Lifetime expenses for qualified health care costs; and**
- **Reasonable expenses connected with adjudication of disputed matters.**

SB 879 includes numerous qualifiers for the use of Trust funds for a qualified plaintiff but the Bill specifies that attorney's fees may not be paid from the Trust. The Trust will be managed by a Board, and it is separate and distinct from State Government. Most of the money for the Trust will come from an assessment determined by the HSCRC and will be charged only to hospitals that charge for acute obstetrics, neonatal ICU, newborn nursery, premature nursery, normal newborn, or labor and delivery services. The HSCRC may periodically assess the stability of the Trust and may make additional assessment to assure that the Trust can meet its obligations. SB 879 focuses on the problem of birth-related injuries by establishing a Birth-Related Injury Prevention program in the Maryland Patient Safety Center.

The program will:

- **review Trust fund claims and processes;**

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- **formulate best practices for prenatal care and deliveries; and**
- **develop and implement programs to improve OB outcomes. The**

program will receive \$1 million annually from the Trust.

SB 879 sets up a situation during a court proceeding on a birth-related neurological injury whereby all payments for future medical expenses of the qualified plaintiff will be paid by the Trust. The intent is to take lifetime health care costs of the qualified patient out of a settlement agreement or jury or court award to an eligible claimant, by designating the claimant as a qualified plaintiff.

You are going to hear today from several experts regarding:

- **rising medical liability costs and the serious destabilization of the hospital reinsurance market;**
- **concerns about the training, recruitment, and retention of OB doctors and access to critical OB services;**
- **how it is very difficult to accurately predict future care costs in these rare, complex cases;**

- **the mechanics of the Bill, how it works to provide guaranteed lifetime care without major changes to the tort system; and**
- **how the State of New York has successfully enacted and implemented a similar model.**

I am passionate about this Bill, and I urge a favorable report on Senate Bill 879.