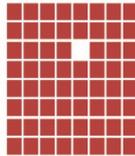


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TO: The Honorable William C. Smith, Jr., Chair
Members, Senate Judicial Proceedings Committee
The Honorable Chris West

FROM: J. Steven Wise
Pamela Metz Kasemeyer
Danna L. Kauffman
Richard A. Tabuteau

DATE: January 29, 2020

RE: **SUPPORT** – Senate Bill 187 – *Civil Actions – Health Care Malpractice Claims (Life Care Act)*

The Maryland State Medical Society (MedChi), the Maryland Chapter of the American College of Emergency Physicians (MDACEP), and the Maryland Section of the American College of Obstetricians and Gynecologists (MDACOG) **support** Senate Bill 187.

A \$229 million judgment in a Maryland medical malpractice case in 2019 has sent shockwaves through the health care industry, especially hospitals which are met with challenging times finding re-insurance in a marketplace that carriers now consider volatile and high-risk. This is problematic standing alone, but the effects do not end there. Physicians who are employed by the hospitals are also obviously affected. Other independent physicians who obtain their medical malpractice insurance directly are also rightfully concerned about what effect this and other verdicts may have on their premiums, too. It is true that premiums for physicians who obtain their own medical malpractice insurance have been stable. However, their insurers must also enter the re-insurance marketplace, where carriers have begun to change their market behavior as a result of verdicts like this, either raising costs or possibly leaving the marketplace altogether. Senate Bill 187 will help address this problem before Maryland experiences another period like 2004, when the State had to intervene through a Special Session of the General Assembly, which acted to subsidize malpractice premiums that had risen astronomically over a relatively short period of time.

Senate Bill 187 accomplishes three things. First, it would move Maryland from the Reed/Frye standard for accepting expert testimony to the Daubert standard. The Daubert standard is followed by federal courts and is generally regarded as providing a more sound and reliable basis for expert testimony than the current Reed/Frye standard. Second, the bill strengthens the requirements for so-called “life care experts”, who testify during medical malpractice cases as to the costs of caring for the injured plaintiff, and have become a tool used by plaintiff’s attorneys to drive up verdicts. Under the bill, they would be required to have expertise in the specific medical services required by the plaintiff. Finally, Senate Bill 187 places limits on the high fees that plaintiff’s attorneys charge in these cases, so that damage awards flow to the injured plaintiff and 40% or more are not going to their lawyers.

MedChi, MDACEP and MDACOG urge the Committee to act favorably on Senate Bill 187.

For more information call:

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