

Written testimony by Sarah L. Smith, Esquire regarding HB 25

To the Members of the House Judiciary Committee:

Thank you for taking the time to consider my submission of written testimony regarding House Bill 25.

I am a trial attorney, and I have devoted almost my entire career to helping citizens of Maryland who have been injured by negligence obtain access to justice. My practice focuses on representing children with brain injuries and cerebral palsy who were injured during childbirth. Maryland law already provides vast protections to healthcare providers and hospitals that no other defendant in a civil case can obtain.

Every single medical malpractice case must first be filed in the Health Care Alternative Dispute Resolution Office (“HCADRO”), and a qualified expert must sign a Certificate confirming that the case has merit. Only certain experts may sign the Certificate: the expert must have clinical or teaching experience in the same or related field as the defendant within 5 years of the time when the claim arose, the expert must be board certified in the same or related field as the defendant, and the expert must devote less than 25% of their professional activities to testimony. These rigorous standards prevent non-meritorious cases from being filed in the Circuit Court.

Healthcare providers are also afforded extra protections if the injured party is successful and obtains a verdict against them. Damages for pain and suffering in medical malpractice cases are capped at a lower rate than in other personal injury cases. In 2021, the applicable cap for medical malpractice claims is \$845,000, while non-medical malpractice claims have a cap of \$890,000. In cases involving wrongful death, the cap on damages for medical malpractice claims is \$1,056,250, while all other wrongful death claims have cap of \$2,225,000.

Hospitals are protected as well—every hospital in the State is a nonprofit organization, and Maryland law limits collection of damages to the amount of insurance available.

Maryland also has among the broadest Covid-19 related immunity provisions in the country, codified in section 14-3A-06 of the Public Safety Code.

Healthcare providers are already protected under Maryland law, and the proposed bill is nothing more than a thinly veiled attempt to prevent the Citizens of Maryland from having access to the Courts—access they are guaranteed by the Maryland Declaration of Rights. House Bill 25 will not protect Marylanders, and I ask for an unfavorable report.