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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

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Testimony in Support

Of

House Bill 684 - Civil Actions -Health Care Malpractice Claims-Witnesses

House Bill 684 would improve the standard upon which expert testimony is admissible in Maryland's health care malpractice cases. Since 1978, Maryland's court system has used the Frye-Reed Standard, which requires that, "before a scientific opinion will be received as evidence at trial, the basis of that opinion must be shown to be *generally accepted* as reliable within the expert's particular scientific field." Under this standard, the exclusive test of expert testimony is based on whether the basis of opinion is *generally accepted* as reliable within the expert's scientific field.

In 1993, the United States Supreme Court adopted what is now known as the Daubert Standard. In their opinion for Daubert vs. Merrell Dow Pharmaceuticals, Inc, the Supreme Court noted, "Frye made 'general acceptance', the exclusive test for admitting expert witness scientific testimony. That austere standard, absent from and incompatible with the Federal Rules of Evidence, should not be applied in federal trials. Under the Federal Rules of Evidence, the trial judge must ensure that any and all scientific testimony or evidence admitted is not only relevant, but reliable. The primary focus of this obligation is Rule 702…"

Rule 702, which is now considered the Daubert Standard, establishes five criteria for expert testimony admissibility. House Bill 684 would adopt this standard in Maryland, bringing our state in line with at least 32 other states, the District of Columbia, and the Federal court system.

The five criteria are:

1. **The witness must be qualified as an expert by knowledge, skill, experience, training or education;**
2. **The expert's scientific, technical, or other specialized knowledge must be found to help the trier of fact to understand the evidence or to determine a fact in issue;**
3. **The testimony must be based on sufficient facts or data;**

4. **The testimony must be the product of reliable principles and methods; and**
5. **The expert must be shown to have reliably applied the principles and methods to the facts of the case.**

Improving Maryland's evidentiary standard for medical malpractice cases will enhance credibility, reliability, and consistency.

For these reasons, I urge a favorable report on HB 684.

Charlotte Crutchfield

Delegate Charlotte Crutchfield