

HB 1037 – Civil Actions - Noneconomic Damages – Personal Injury or Wrongful Death

Position: *Oppose*

Bill Summary

HB 1037 would eliminate the noneconomic damages cap in personal injury or wrongful death cases, if the trier of fact finds, by a preponderance of the evidence, that the damages resulted from one or more willful, wanton, malicious, reckless, or grossly negligent acts or omissions.

Rationale

Caps on noneconomic damages awards have proven to be effective in reducing medical liability insurance costs by: reducing the incentive to litigate weak claims; reducing the average size of liability awards (severity); and reducing total lost costs -- all important determinants of medical costs. By reducing the cost of medical services, a cap makes health care more affordable and increases the public's access to physicians and hospitals.

Conversely, elimination of the cap would lead to more litigation, larger awards, and significantly increased litigation-related expenses. These higher costs would ultimately be borne by consumers who would pay more for their health care costs' and by government programs for public employee and retiree health care costs.

Under the recently negotiated agreement with the federal Centers for Medicare and Medicaid Services, Maryland hospitals are committed to save the Medicare program \$330 million over five years. This comes at a time when the state continues to rely on \$390 million in hospital assessments to balance the Medicaid budget.

Adding a significant cost variable via elimination of the cap on noneconomic damages will make it significantly more difficult to achieve the savings promised and divert resources needed to improve the population's health.

It is important to note there is no limit on the amount of economic damages (past and future medical expenses, lost wages, and other tangible damages) in Maryland. In fact, the larger concern is the increase in the size of recent economic damages awards. The artificial inflation of economic damages -- using the billed rate for medical services, projecting future income without accounting for taxes, failure to account for available public programs, etc. -- needs to be addressed, if Maryland is to remain competitive in attracting and retaining sufficient numbers of health care providers.

For the above stated reasons, we urge you to give HB 1037 an **UNFAVORABLE** report.