



February 24, 2025

The Hon. Joseline A. Peña-Melnyk  
Chair, House Health and Government Operations Committee  
241 Taylor House Office Building  
6 Bladen Street  
Annapolis, Maryland 21401

The Hon. Luke Clippinger  
Chair, House Judiciary Committee  
101 Taylor House Office Building  
6 Bladen Street  
Annapolis, Maryland 21401

**HB 926 – Health Care Malpractice Claims  
– Health Care Provider – Definition**

**UNFAVORABLE**

Dear Chair Peña-Melnyk and Chair Clippinger, and Distinguished Members of the House Health and Government Operations and House Judiciary Committees:

Fifty years ago, the General Assembly enacted the Health Care Malpractice Claims Act, Md. Cts. & Jud. Procs. Code Ann. §§ 3-2A-01 et seq. (HCMCA), in response to a perceived nationwide “crisis” in the availability and affordability of medical professional liability insurance coverage in this State.

Today, we better understand that the “crisis” in 1975 was a predictable result of the cyclical nature of insurance markets. When insurance markets predictably become “soft,” the premiums charged by insurers decrease due to increased competition. Predictably, insurance markets also “harden” from time to time (about every ten years or so), and insurance rates temporarily increase during those times.

As initially enacted, the HCMCA provided special tort protections for certain “health care providers,” as defined in § 3-2A-01(f). Specifically, tort protections were afforded only to those providers specifically impacted by the perceived “crisis” in 1975. Over time, the Legislature has added other providers to that list (and, on occasion, refused to add other certain providers).

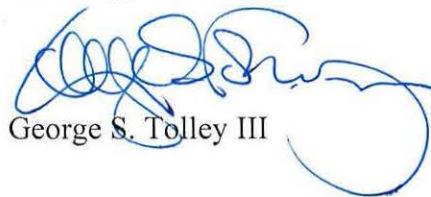
Protecting health care providers from liability for the consequences of professional malpractice comes at a cost. Patients who suffer injury from professional malpractice, and the families of patients killed by professional malpractice, are deprived of compensation determined after fair and impartial trials by citizen juries in Maryland's courthouses. Accordingly, the General Assembly must not simply grant special tort protection to everyone who asks for it.

HB 926 would expand special tort protections broadly, in a way that would extend protections to providers who have never experienced a "crisis" in availability or affordability of liability insurance. There is no evidence, for example, that occupational therapists or pharmacists have ever had any difficulty securing affordable liability insurance.

As currently configured, the HCMCA requires malpractice plaintiffs to clear certain procedural hurdles when the defendant provider is within the scope of the Act. As such, it is critically important for the class of protected providers to be clearly defined. However, HB 926 uses vague language to expand the scope of protection to individuals "otherwise authorized to render health care services" – which will leave plaintiffs and their lawyers (and, ultimately, the courts) to struggle to identify who is, and is not, entitled to special tort protection.

As currently drafted, and in the continuing absence of a rational basis for expanding special tort protections for hospital-based health care providers, I respectfully ask for an **UNFAVORABLE** report on **House Bill 926**.

Sincerely,



George S. Tolley III