



Originally Submitted on February 20, 2019 via email

Dear Committee Members:

The Pennsylvania Association of Mutual Insurance Companies (PAMIC) has represented the mutual insurance industry since 1907. On behalf of PAMIC's 53 member groups, representing over 100 property and casualty insurance companies licensed to do business in Pennsylvania, we are writing to ask the Civil Procedure Rules Committee to abandon its plan to propose the amendment of the rules governing venue in medical professional liability actions. PAMIC applauds the recent announcement that The Pennsylvania Supreme Court temporarily set aside its proposal to ease 17-year-old restraints on medical malpractice lawsuits by informing the Pennsylvania Senate to accept their request to postpone action pending review by a legislative research office.

In the late 1990s and early-2000's, there was a growing crisis in the Commonwealth – healthcare providers were increasingly unable to obtain reasonably priced professional liability insurance. In many specialty practice areas, maintaining this mandatory coverage became so cost prohibitive that there were shortages and exits of needed practitioners. Additionally, certain professional liability insurers became insolvent or otherwise exited Pennsylvania. Some of the insolvencies triggered state insurance guaranty funds, which in turn, impacted the general fund (through tax credits) and insurance costs for all consumers in light of assessments made on all participating insurers.

At the time, and after the fact, it was apparent that these coverage shortages and attendant problems were primarily the direct result of the excessive successes of the plaintiffs' medical malpractice bar bringing cases in certain venues -- the court system's venue rules that were then in effect exacerbated these results by allowing cases to be brought in certain counties that had histories of rendering higher verdicts, like Philadelphia County, even when the patient, doctor and medical incident at issue had no real nexus to that county. With designees from all three branches of Pennsylvania's government participating, the Interbranch Commission on Venue addressed this crisis by recommending that medical professional liability cases be filed in the county where the incident occurred. The Supreme Court adopted this recommendation.

After the 2002 venue rule change, over time, the medical professional liability insurance market was largely re-stabilized, specialty practitioners have been able to find more affordable insurance, and insurance availability has expanded. The Pennsylvania Supreme Court's Civil Procedural Rules Committee's proposal to reverse the 2002 venue rule change because it "no longer appears warranted" is illogical. Undoubtedly, the rule reversal will reverse the current



market stability, and once again unnecessarily increase the cost of medical services to the citizens of the Commonwealth.

The Committee’s statement that reversing the venue rule will “restore fairness to the procedure” is, in itself, an unfair assumption. It is important to note that professional liability insurance is mandatory for healthcare professionals. Undoing the venue fix that was implemented in 2002 will inarguably lead to higher costs and certain providers exiting certain markets. Forcing increased liability insurance premiums on all medical providers, regardless of where they practice (since they will be able to be dragged into venues that are in no way connected to what they do), actually restores unfairness. This reversal will unfairly restore increased costs on all Commonwealth citizens.

Thank you for your consideration of these concerns.

Respectfully Submitted,

Ron Gallagher, President
Pennsylvania Association of Mutual Insurance Companies