



Karla M. Shultz, Counsel
Civil Procedural Rules Committee
Pennsylvania Supreme Court
PO Box 62635
Harrisburg PA 17106-2635

Sent via email: karla.shultz@pacourts.us

Re: Proposed Amendment of Pa.R.C.P. Nos. 1006, 2130, 2156, and 2179

Dear Counsel Shultz:

As practicing orthopaedic surgeons in Pennsylvania, and on behalf of the Pennsylvania Orthopaedic Society and the American Association of Orthopaedic Surgeons members we serve, we are writing to request that the Pennsylvania Supreme Court's Civil Procedural Rules Committee reject proposed amendments of Pa.R.C.P. Nos. 1006, 2130, 2156, and 2179. Further consideration of these amendments is imprudent and risks creating another medical liability insurance crisis in the Commonwealth.

In the late 1990s and early 2000s, Pennsylvania experienced a medical liability crisis like no other in our history. Hospital maternity units closed, emergency departments and trauma centers nearly shuttered and physicians retired early or left the state. These are well documented facts.

A major driver of that crisis was venue shopping. In response, the General Assembly, Governor Mark Schweiker and the Court resolved this vexing issue by enacting Act 127 and Act 13 of 2002 and adopting the current venue rules. These actions did more to stabilize the medical liability insurance market than any other action of the era.

The medical liability reforms of Act 13 of 2002 were extremely important, but make no mistake, the end of venue shopping was vital to preserving Pennsylvania's healthcare delivery system and ending the medical liability insurance crisis. Act 13's reforms, without a halt to venue shopping, would not have stemmed the physician exodus nor significantly reduced medical liability insurance premiums. Simply put, physicians would not have stayed in Pennsylvania and risked being sued in high judgement counties. For the same reason, medical liability insurance premiums would not have been significantly lowered if defendants were still subjected to suits in high payout counties. The General Assembly's and Governor Schweiker's work to resolve the medical liability crisis did not end with Act 13 (March 20, 2002) and they proceeded to enact Act 127 (October 17, 2002). Fortunately, the Court joined that effort and adopted the current venue rule.

Proponents of the proposed amendments cite the growth of integrated healthcare systems as a main reason to return to venue shopping. This could be no further from the truth. In 2002, the Courts, the General Assembly and the Schweiker Administration wisely decided that a medical liability lawsuit should be judged by the community standards in which an alleged injury occurs. This basic precept of justice has not changed in the last

seventeen years. Adoption of the proposed amendments will subject orthopaedic surgeons and the facilities in which they practice to standards of justice that do not apply within their home communities. No unelected arm of a governmental body should unilaterally decide to change nearly 20 years of jurisprudence.

Since 2000, the Court's own data as presented in the annual Medical Malpractice Jury Verdict Reports shows the number of overall medical liability lawsuits has declined since 2002 with the sharpest reduction in the years immediately following enactment of Act 127 and adoption of the current venue rule. In fact, the number of medical liability lawsuits has been relatively constant for several years. The elimination of venue shopping combined with the reforms contained in Act 13 of 2002 have worked as designed. The addition of the Mcare Abatement Program in 2003 completed the state government's work to secure high quality patient care, preserve the physician community and stabilize the medical liability insurance market. And each governor's decision since 2003 to maintain the Mcare coverage limits at \$500,000.00 has ensured no disruption to the healthcare delivery. The Pennsylvania Orthopaedic Society was a prime driver in each of these governmental actions. Please be assured we will oppose the proposed venue rule amendments by all means necessary.

On behalf of our members, who are committed to serving older Pennsylvanians, young and mature athletes alike, and injured workers, please reject the proposed amendments to the current venue rules.

Asif Ilyas, MD
President, Pennsylvania Orthopaedic Society

David A. Halsey, MD
President, American Association of Orthopaedic Surgeons