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February 22, 2019

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

IN RE: Proposed Amendments to PRCP 1006, 2130, 2156 and 2179

To the Members of the Committee:

I am writing this letter in my capacity as President of the Board of the Pennsylvania Podiatric Medical Association. Our Association counts as its members over 850 of the 1100 licensed Doctors of Podiatric Medicine in the Commonwealth.

A podiatric physician receives the degree of Doctor of Podiatric Medicine (DPM) from one of nine Podiatric Medical Schools in the nation. One of the premier podiatric medical schools is the Temple University School of Podiatric Medicine, located in Philadelphia. A doctor of podiatric medicine receives a four year undergraduate degree, a DPM degree after four years of podiatric medical school and, currently, a three year podiatric medicine and surgery residency in a hospital setting. In its simplest terms, a podiatrist has an unlimited license to practice medicine and surgery within a limited part of the anatomy, commonly described as the foot and ankle and lower leg.

For purposes of this comment I submit that Doctors of Podiatric Medicine, along with Medical Doctors and Doctors of Osteopathy are required to carry one million/three million dollars in professional liability insurance in order to qualify for our license. We are included in the MCARE Fund and are subject to the second layer coverage supplied through the MCARE system in order to meet our one million/three million dollar required coverage. (MEDICAL CARE AVAILABILITY AND REDUCTION OF ERROR (MCARE) ACT. Act of Mar. 20, 2002, P.L. 154, No. 13 40.)

I raise this issue because of the impact that the proposed rule change relating to venue will have on every Doctor of Podiatric Medicine in the Commonwealth. Without reiterating each comment, we fully endorse the comments issued by the Pennsylvania Medical Society, the Hospital and Healthsystem Association of Pennsylvania and the Pennsylvania Coalition for Civil Justice Reform.

However, I wish to emphasize one impact that this proposed rule change will have on every MD, DO and DPM in the Commonwealth. That impact will be through the MCARE annual assessments. MCARE assessments are calculated annually in order to fund the settlements and verdicts reached in the previous year against doctors and hospitals state wide. That gross amount is indexed on the "... prevailing primary premium for each participating health care

provider...” That prevailing primary premium is further defined as “... the schedule of occurrence rates approved by the Insurance Commissioner for the Joint Underwriting Association.”

The impact of this indexing is that any increase in verdicts and judgments experienced in a single geographic area is spread over all participating health care providers through a single assessment percentage. This means that should the change in venue rules be implemented, every Doctor of Podiatric Medicine in Pennsylvania will experience an increase in MCARE Assessments reflected by the forum shopping that the proposed rule change encourages.

This proposed change WILL have a negative impact on the availability of care as well as the availability of hospital based residence training programs within the Commonwealth.

What is most puzzling about this proposed change to venue rules is the absolute lack of any substantive or substantiated basis upon which the proposal is made. The single statement that: “... there are far fewer compensated victims of medical negligence...” cannot stand as a valid reason upon which to change a venue settlement that resulted in a rule that has worked for over fifteen years. The statement itself cannot stand alone. If examined as a free standing statement, it raised the following questions:

- Is there no adequate court system in any county other than Philadelphia?
- If uncompensated, after a trial, verdict, settlement or dismissal, is there a “victim” of medical negligence?
- Are there fewer causes of action, or fewer plaintiff verdicts?
- Are there fewer causes of action because the patient safety provisions of Chapter 3 of Act 13 have worked to produce fewer medical errors as per their intended purpose?

This statement cannot withstand any critical analysis.

Changing our Civil Procedures Rules based upon that single statement would be an act which ignores the current successful implementation of Act 13’s Interbranch Commission on Venue, impugns the capability and integrity of the county court systems and insults by implication, the members of the bar throughout Pennsylvania.

The intent of this proposed change is clear. I refer you to an Article dated February 19, 2019 published in Forbes, entitled “This Pennsylvania Committee Is Proposing Changes That Benefit Five Of Its Members’ Law Firms.”

Our Association urges that the Proposal to the Rule amendments be withdrawn, or in the alternative, that that Supreme Court reject the proposed changes.

Respectfully submitted,



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