

ROB KAUFFMAN, MEMBER
89TH LEGISLATIVE DISTRICT



House of Representatives
Commonwealth of Pennsylvania
Harrisburg

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RULES

February 11, 2019

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

Dear Ms. Shultz:

I am writing to express my strong opposition to changes being considered by the Civil Rules Procedure Committee of the Pennsylvania Supreme Court to the rules of venue for medical liability litigation.

In the early 2000s, medical malpractice civil lawsuits from all over Pennsylvania were being steered to Philadelphia for trial, even if none of the alleged malpractice actually took place there. This is due to the fact that Philadelphia juries routinely awarded substantially higher payouts compared to other counties. In reaction, doctors – including those in family practice, OB-GYNs, orthopedists, neurosurgeons and many other specialists – retired early, ceased performing necessary but risky procedures, closed entirely, or moved to other states. That led to higher health care costs overall and broken relationships between patient and physician. Access to health care suffered statewide.

The Commonwealth responded to this crisis with the Medical Care Availability and Reduction of Error Act as Act 13 passed of 2002. At that time, the venue issue was one of the key elements that was widely discussed by stakeholders from both sides and their respective legislative advocates. The issue of venue for medical liability litigation was a topic of policy discussion at the time, and Act 13 established an interbranch commission to examine the issue and to make recommendations on that topic. The structure of the Interbranch Venue Commission was designed to respect the fact that providing for proper venue is a blended responsibility of both the Judiciary and Legislative branches. After substantial deliberation, the commission recommended changing the venue rules to limit the counties where a medical professional liability action could be brought to only counties in which the transaction or occurrence took place. In recognition of the fact that venue was both an issue of policy and procedure, this standard was put in place by the General Assembly through the enactment of Act 127 of 2002 and via a matching order of the Supreme Court amending the Rules of Civil Procedure.

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Among all the non-economic issues considered at that time, the venue issue had a high profile in the media, in the halls of the General Assembly, and in the conference rooms of the stakeholders. It was a key element of the overall reform package needed to stabilize a dangerously out of balance medical liability system. And, in fact, that reform appears to have worked as intended. Patient safety has increased while the Supreme Court's own data shows that the rule has been working as intended by all of the stakeholders. Given the near unanimous votes in the General Assembly on both Act 13 and Act 127, it is obvious that the legislative intent on the entire medical liability reform proposal, including venue, was crystal clear to both the legal and medical communities.

The legislative language undergirding Act 13 relating to venue is also particularly significant. Section 514 of the law established the Interbranch Venue Commission and referenced circumstances that characterize the health care industry of that time which are still today, nearly 17 years later, powerful influences for patents, health care providers and health care systems. The statute references the "revamped corporate structure of medical facilities and hospitals across this" Commonwealth and the impact of that corporate legal development on "the reach and scope of [then-]existing venue rules." Those conditions have only become more omnipresent in Pennsylvania. What has *not* changed is also mentioned in Act 13: "These physicians and health care institutions are essential to maintaining the high quality of health care that our citizens have come to expect."

Rather than risking a return to a tumultuous time when access to health care suffered and patients could not readily obtain the quality care they needed, I urge you to reject this proposed rule change.

Best regards,

A handwritten signature in black ink that reads "Rob Kauffman". The signature is written in a cursive style with a long horizontal line extending to the right.

Rob Kauffman, Majority Chairman
House Judiciary Committee
89th Legislative District