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**Pa. Republican Policy Committee Hearing
Room G-50, Irvis Office Building**

Feb. 14, 2019

**Testimony from the Pennsylvania Medical Society
Presented by Danae Powers, MD**

Good afternoon, Chairman Oberlander and Honorable Members of the House Republican Policy Committee. I am Danae Powers, MD, President of the Pennsylvania Medical Society and I appreciate the opportunity to give my perspective on the proposed venue rule change and to be the voice today that represents Pennsylvania physicians.

The proposal presented by the Civil Procedural Rules Committee concerns me on three distinct but inter-related levels: forum shopping in metropolitan markets across the Commonwealth, the stability of liability premiums for physicians to practice in the state, and perhaps most importantly, the impact on patients and their ability to access quality care.

First, the venue rule, which went into effect in 2003, was designed to address forum shopping—the proclivity of plaintiff’s attorneys to file medical professional liability actions in high verdict counties, such as Philadelphia, even when there was no sensible connection between the county and the care received by the plaintiff.

Philadelphia is regularly used as an example of the potential abuse of venue.

- Since courts prohibited forum shopping in 2003, there was a 66.3% decline in medical liability cases filed in Philadelphia County.
- Between 2000-2002, Philadelphia County averaged 1,204 medical malpractice filings; from 2003-2017, the highest number of filings were 586 filings.

Thankfully, the rule, along with the requirement for pretrial certificate of merit, had its intended effect. The number of cases filed, and physicians sued, declined significantly. Both the plaintiff and defendant were given a fair opportunity to be heard in local community, by local jurors and judges.

Second, the proposed changes could also usher the return of skyrocketing medical liability premiums for physicians. Medical liability insurance cost in Pennsylvania still ranks near the top but the proposed changes threatens to make it worse.

The proposed rule would increase cost for the professional liability insurance carriers in the state and a domino effect could ensue:

- Medical liability carriers may voluntarily or involuntarily move out of the Pennsylvania market. Insurance carriers could become selective in who they choose to underwrite. This impacts all Pennsylvania physicians, as the number of carriers has the potential to decrease, making it increasingly difficult to find professional liability coverage in the state.
- Since professional liability insurance is required to practice in the state, physicians could be left with three options: seek other practice alternatives, retire, or leave the state all together.

And last but not least, the proposed venue rule changes could threaten patient access to quality physician care. The increased cost of medical professional liability insurance may place providers and hospitals under greater financial strain. The concern is that many rural hospitals, already struggling to remain solvent, will be further threatened with closure.

I believe that the liability crisis in the late 90's and early 2000's brought the Commonwealth's medical community to its knees as high-risk specialists like neurosurgeons curtailed complex surgeries, OB/GYN's stopped delivering babies, and the ability to recruit physicians to practice in the Commonwealth all but dried up. Vulnerable populations like older Pennsylvanians, newborns, expectant mothers, and trauma patients suffered while personal injury lawyers unfairly pocketed millions in contingency fees.

We must learn from history. I believe the current venue rule, which stipulates that medical liability claims must be filed in the county where the alleged medical error occurred, helped stabilize the medical liability climate back in 2002. The result of the proposed venue rule change by the Civil Procedural Rules Committee will create a domino effect of negative implications for the professional liability insurance market, physicians, other health care providers, and most importantly, access to quality care for all Pennsylvanians.

Thank you again for the opportunity to share with you my concerns regarding the proposed venue rule and I would be happy to address any questions you may have.