

September 8, 2022

The Honorable Martin T. Causer
Chairman
Republican Policy Committee
Pennsylvania House of Representatives
147 Main Capitol Building
P.O. Box 202067
Harrisburg, PA 17120-2067

Dear Chairman Causer and Honorable Members of the Committee:

The purpose of this letter is to communicate the opposition of the undersigned organizations to changes to the venue rules in medical liability actions approved by the Supreme Court last month.

The decision of the Supreme Court reverts to a concerning pre-2003 legal framework that once again would allow personal injury lawyers to “venue shop” by moving medical liability claims from the counties in which the event occurred to counties that have histories of higher payouts. This action not only eliminates a major reform that has helped to stabilize the medical liability insurance market and preserve access to care in the commonwealth for nearly two decades, but it also undermines the consensus-driven approach embodied by the work of the Interbranch Commission on Venue, which recognized that all three branches of government have vital policy interests in this matter.

As noted in the attached letter sent to the Civil Procedural Rules Committee in early 2019, Pennsylvania health care providers and consumers will be adversely affected by a change to the venue rule. By allowing venue in counties with only a tangential relation to the underlying cause of action, claimants will shop for verdict-friendly venues in which to file their suits.

Returning to the rules in place during Pennsylvania’s medical liability crises will again lead to higher premiums for medical liability insurance, make Pennsylvania less attractive to physicians and other health professionals considering practicing in the state, increase medical costs, and adversely impact access to care for consumers.

Our members—who serve as the backbone of Pennsylvania’s healthcare delivery system—have firsthand knowledge of the impact the proposed venue rules could have on the medical liability climate. We also know that changes to the health care system between 2003 and 2022—such as provider consolidations, COVID-related workforce shortages, escalating cost pressure, and ongoing financial vulnerability of rural providers—will amplify the negative impact of the rule change.



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We urge you to take all steps necessary to reverse the Supreme Court's decision and forestall the negative impact of potential changes to the venue rules on the entire healthcare delivery system in Pennsylvania and, most importantly, the citizens who rely on this system for access to safe and cost-effective care.

Thank you for your thoughtful consideration of our concerns.

Sincerely,

Ambulance Association of Pennsylvania

LeadingAge PA

Pennsylvania Academy of Audiology

Pennsylvania Affiliate of American College of Nurse-Midwives

Pennsylvania Ambulatory Surgery Association

Pennsylvania Association of Nurse Anesthetists

Pennsylvania Chapter of the American Academy of Pediatrics

Pennsylvania Chapter of the American College of Physicians

Pennsylvania Chiropractic Association

Pennsylvania Coalition of Nurse Practitioners

Pennsylvania College of Emergency Physicians

Pennsylvania Dental Association

Pennsylvania Homecare Association

Pennsylvania Medical Society

Pennsylvania Optometric Association

Pennsylvania Osteopathic Family Physicians Society

Pennsylvania Pharmacists Association

Pennsylvania Rheumatology Society

Pennsylvania Rural Health Association



[The Urban Health Care Coalition of Pennsylvania](#)

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Pennsylvania Society of Health-System Pharmacists

Pennsylvania Society of Physician Assistants

Pennsylvania State Nurses Association

Rehabilitation & Community Providers Association

Safety-Net Association of Pennsylvania

The Hospital and Healthsystem Association of Pennsylvania

The Urban Health Care Coalition



February 18, 2019

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

Dear Counsel Schultz:

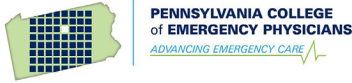
The undersigned organizations are writing to register their strong opposition to the proposed changes to the venue rules in medical liability actions being proposed by the Civil Procedural Rules Committee.

Pennsylvania health care providers and consumers would be adversely affected by a change to the venue rule. By allowing venue in counties with only a tangential relation to the underlying cause of action, claimants could shop for verdict-friendly venues in which to file their suits. This could again lead to higher premiums for medical liability insurance, make Pennsylvania less attractive to physicians and other health professionals considering practicing in the state, increase medical costs, and adversely impact access to care for consumers.

Background. As you know, prior to 2002, Pennsylvania was facing a medical liability crisis. Medical liability insurers left the market, limited the sale of medical liability insurance, and experienced significant downgrades in their credit ratings. In turn, hospitals, physicians, and other healthcare providers faced skyrocketing premiums—leading many of them to leave the commonwealth or reduce services.

As a result of the passage of the Medical Care Availability and Reduction of Error (MCARE) Act, Act 13 of 2002, both the legislature and the Supreme Court adopted reforms that reduced the number of malpractice claims brought in Pennsylvania, especially in Philadelphia and Allegheny Counties. These reform efforts are widely seen as the most important step in Pennsylvania’s efforts to address the medical liability insurance crisis, substantially reducing medical malpractice filings statewide.

In its proposed rule, the Civil Procedural Rules Committee is now proposing to rescind a key element of the 2002 reforms, i.e. the rule that limits venue in medical professional liability actions to the county “in which the cause of action arose.” In the explanatory comment to the proposed rules, the Rules Committee states that “there has been a significant reduction in medical malpractice filings for the past 15 years,” and that this reduction “has



resulted in a decrease of the amount of claim payments resulting in far fewer compensated victims of medical negligence.”

Why the Venue Rule Should Remain in Place. For the following reasons, our organizations do not believe that the venue rule should be rescinded.

- 1. The proposed rule change is not in the public interest**—The proposed rule changes will likely lead to, among other things, increased medical liability insurance rates, access issues for patients, and increased health care costs for businesses, consumers, and government payors.
- 2. The data on which the Committee relies does not support the conclusion that the current venue rule should be rescinded**—The reduction in court filings of medical malpractice actions demonstrates that the tort reform measures enacted by the legislature and the Supreme Court are working.
- 3. The Committee has not provided any data demonstrating that the current rule deprives alleged victims of access to the courts**—There is no evidence that counties where malpractice actions are currently being litigated are not rendering fair results.
- 4. The data provided by the Committee is incomplete because it does not include claims in which litigation was not filed**—The Supreme Court data tracks only those medical professional liability claims that were filed in court and tried to verdict, and does not include those claims in which litigation was not filed or those claims which were resolved outside of court. These claims must be taken into account before assuming that the alleged “special treatment” of medical liability claims is no longer warranted.
- 5. The proposal, if adopted, would represent a departure from the past practice of building consensus on rule changes that could have a significant public policy impact**—The Interbranch Commission on Venue, created under Act 13 of 2002, was comprised of appointments from the legislative, executive, and judicial branches of government. A majority of the members of the commission recommended that medical liability cases only be filed in the county in which the cause of action arises. The Pennsylvania Supreme Court



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adopted the commission’s recommendation, as did the General Assembly through Act 127 of 2002. If the Committee’s proposed change is adopted, this would represent a departure from consensus approach adopted in 2002, and create a situation in which there would be two conflicting venue approaches, state law and a new court rule.

Recommendations. For all the reasons mentioned above, the Supreme Court should not implement the proposed rule change. At a minimum, however, any potential changes to the venue rules should only be made after careful evaluation and study of the potential impact of the rule changes and a determination by all three branches of government that the change is in the public interest.

Thank you for your thoughtful consideration of our concerns.

Sincerely,

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| Health Federation of Philadelphia | Pennsylvania Psychiatric Society |
| LeadingAge PA | Pennsylvania Rural Health Association |
| Healthcare Council of Western Pennsylvania | Pennsylvania Section of the American College of Obstetricians and Gynecologists |
| Pennsylvania Affiliate of American College of Nurse-Midwives | Pennsylvania Society of Physician Assistants |
| Pennsylvania Association of Community Health Centers | Pennsylvania State Nurses Association |
| Pennsylvania Athletic Trainers Society | Rehabilitation and Community Providers Association |
| Pennsylvania Chiropractic Association | Safety-Net Association of Pennsylvania |
| Pennsylvania Coalition for Oral Health | The Hospital and Healthsystem Association of Pennsylvania |
| Pennsylvania Coalition of Nurse Practitioners | The Urban Healthcare Coalition |
| Pennsylvania College of Emergency Physicians | |
| Pennsylvania Dental Association | |
| Pennsylvania Homecare Association | |
| Pennsylvania Medical Society | |
| Pennsylvania Optometric Association | |