



Maryland  
Hospital Association

## MEDICAL LIABILITY RAISING COSTS, THREATENING ACCESS TO CARE

### THE ISSUE

A contentious and abrasive medical liability environment in Maryland needlessly raises the cost of health care and makes it difficult to attract and retain the doctors necessary to provide quality care.

In 2015, Maryland ranked ninth in the nation in per capita medical malpractice payouts. The total payout amount, \$109 million, means that Maryland was one of only nine states with more than \$100 million in payouts, putting the Free State in the company of New York, New Jersey, and Illinois. And because defensive medicine – the overuse of tests and procedures as doctors and other providers seek to protect themselves from potential lawsuits – accounts for 13 percent of all hospital costs, that translates into an additional \$2.1 billion in unnecessary health care spending in Maryland. The Congressional Budget Office has concluded that fixed caps on non-economic damages reduce health care spending and malpractice premiums (surgeons and ob/gyns in our region spend as much as \$160,000 per year on insurance).

This climate could put patients at risk: a significant percentage of neurologists, emergency room physicians, obstetricians, gynecologists, and other specialists report they would perform a procedure that is not medically warranted due to malpractice fears. That's an avoidable burden that patients now bear.

It doesn't have to be this way. Maryland's current cap on awards for non-economic damages, such as pain and suffering, is already \$785,000, among the highest of states that have such caps, and rises \$15,000 annually. Perhaps even more important, there is ***no cap on economic damages***, such as medical expenses, lost income and compensation for future earnings.

Maryland's "litigation lottery" drives trial lawyers to seek astronomical jury awards in pursuit of a big payout for themselves. Lost is a good-faith effort to provide those who deserve compensation with the timely funds they need. For a handful of cases that would qualify each year, a No-Fault Birth Injury Fund (similar to ones that already operate in Florida and Virginia) would provide timely compensation without asking injured parties to play a drawn-out "litigation lottery." Families that are suffering need rapid resolution, and all the funds coming to them, not a prolonged process that cuts trial attorneys in for a substantial portion.

### WHAT HOSPITALS ARE FOR

Support the creation of a No-Fault Birth Injury Fund. Reject trial lawyers' attempts to raise the state's cap on non-economic damages.

