



House Bill 289 – Civil Actions – Noneconomic Damages

Position: *Oppose*

Bill Summary

HB 289 would increase the maximum amount of noneconomic damages that may be recovered in specified wrongful death actions or survival actions arising on or after October 1, 2018; provide that a jury may be informed of specified limitations on noneconomic damages in specified civil actions.

MHA Position

Maryland's hospitals oppose efforts that would make the state's highly litigious environment – which needlessly raises the cost of health services and makes it difficult to attract and retain the doctors necessary to provide the highest quality care – even more volatile.

In 2016, Maryland ranked 12 in the nation in per capita medical malpractice payouts with a total payout amount of \$92 million. 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 billion in unnecessary health care spending in Maryland.

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.

This proposal would raise fees for plaintiffs' attorneys and increase malpractice insurance rates (and thus health care costs for everyone). Further, the practice of defensive medicine unnecessarily inflates the cost of providing health care, which threatens hospitals' ability to live within the fiscal constraints of the Medicare waiver. If the waiver is lost due to failure to meet these fiscal limits, Maryland stands to lose an estimated \$2 billion each year in federal dollars.

And Maryland's health care system is already on uncertain footing, as the state continues to negotiate on a new hospital payment model to begin after the expiration of the All-Payer Model (Medicare waiver). Introducing new laws that further strain hospitals that are already incentivized to provide the highest quality, efficient care could generate large-scale upheaval at this sensitive juncture.

For these reasons, we urge you to give HB 289 an *unfavorable* report.