



Maryland
Hospital Association

Senate Bill 465 – Motor Vehicle Accidents Involving Pedestrians or Non-motorized Vehicles - Comparative Negligence

Position: *Oppose*

Bill Summary

SB 465 would establish a comparative negligence standard for cases involving plaintiffs seeking recovery in motor vehicle accidents involving pedestrians or non-motorized vehicles.

MHA Position

Maryland's hospitals oppose efforts that would make the state's highly litigious environment more volatile. SB 465 establishes a set of circumstances where comparative negligence may be utilized, the proverbial "nose under the camel's tent", that would incentivize even more costly litigation. Currently, Maryland is a contributory negligence state, where a plaintiff is barred from recovering any damages in the event that the plaintiff bears any responsibility at all for the harm that occurred. Any shift to a comparative negligence standard runs the risk of creating upheaval in our already challenging tort system.

This is of concern for Maryland's hospitals, where in 2016, Maryland ranked 12th in the nation in per capita medical malpractice payouts with a total payout amount of \$92 million. These high malpractice payouts significantly affect hospitals' ability to live within the fiscal constraints of the Medicare waiver, which brings an estimated \$2 billion of federal dollars to Maryland each year.

Defensive medicine – the overuse of tests and procedures utilized by doctors and other providers who seek to protect themselves from potential lawsuits – accounts for 13 percent of all hospital costs, roughly \$2 billion in unnecessary health care spending in Maryland. And a significant percentage of neurologists, emergency room physicians, obstetricians, gynecologists, and other specialists have reported that they would perform a procedure that is not medically required due to malpractice fears. That's an avoidable burden that patients now bear, and additional costs the state endures.

Any potential expansion of the scope of cases plaintiff's attorneys will pursue is likely to exacerbate these conditions and holds the potential to drive increases in medical insurance rates and, in turn, health care costs for everyone.

As the state continues to negotiate on a new hospital payment model, it is critical to avoid legislation that further strains the ability to provide and invest in high quality care.

For these reasons, we urge you to give SB 465 an *unfavorable report*.