

PA Legislature Cannot Determine the Anticipated Impact of the Proposed Repeal of the Medical Malpractice Venue Rule

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Yesterday, the Legislative Budget and Finance Committee, a joint committee of the Pennsylvania General Assembly, released its long-anticipated study examining the potential impact of the proposed repeal of the medical malpractice venue rule which, for the past 17 years, has required all medical malpractice actions to be brought in the county in which the cause of action arose.

Despite extensive work over the past year culminating in a 200 page report, the Committee ultimately concluded that there was insufficient data to assess the impact of any change to the medical malpractice venue rule on the access to or availability of medical care, compensation for victims of medical negligence, or the cost and affordability of medical malpractice insurance. The venue rule was enacted as part of a suite of tort reform measures and the Committee was unable to isolate the venue rule from these other measures to assess the impact of the proposed repeal. Additionally, the Committee recognized that issues like access to care, the functioning of the insurance market, and concepts of fundamental “fairness” are complex and defy a precise definition by their very nature. Accordingly, the Committee drew no conclusions and made no recommendations as to whether the proposed rule change should be adopted by the Supreme Court of Pennsylvania.

Nevertheless, the Committee recognized that, since the implementation of medical malpractice tort reform (including the venue rule), the medical professional liability insurance market has remained relatively stable. The report further notes that, given the myriad factors that impact the functioning of this insurance market, it is reasonable to conclude that any significant change will be destabilizing.

Although the Supreme Court could take action on the proposed rule change at any time, we expect a renewed period of public comment after all interested parties and stakeholders have had an opportunity to fully digest the Committee’s findings. Legislators have already called for public hearings regarding the report and we further expect the Civil Procedural Rules Committee to reopen the comment period before the Supreme Court takes up the issue in earnest.

White and Williams LLP understands how important this issue is to every healthcare provider in the Commonwealth. Accordingly, we will continue to monitor it closely and expect to have the opportunity to submit further comment for consideration by the Supreme Court. If you have questions or would like further information, please contact Kevin Cottone (cottonek@whiteandwilliams.com; 215.864.7108), Joshua Gajer (gajerj@whiteandwilliams.com; 215.864.6837) or another member of the Healthcare Group.

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