



Maryland
Hospital Association

Senate Bill 322- Notice of Intent to File Claim

Position: *Support*

Bill Summary

SB 322 would prohibit a claim against a health care provider for damage due to a medical injury from being filed with the Director of the Health Care Alternative Dispute Resolution Office unless, at least 90 days before filing the claim, the claimant has given a notice to the health care provider of intent to file a claim; requiring the notice to include certain information and to be served on the health care provider at a certain address;

MHA Position

Maryland's hospitals support efforts that ensure fair and objective litigation proceedings to help stabilize the state's volatile liability environment, lower the cost of health care, and reduce malpractice premiums to ensure access to high-quality care providers throughout the state.

A recent survey found that total hospital payouts (closed claims) are nearly 140 percent higher in 2018 than in 2008 — \$176 million annually vs. \$73.5 million — despite the frequency of claims remaining relatively stable.¹ In fact, the total number of claims in Maryland is about half the national average in most years, while the overall claim payout is approximately double the national average most years.² Unfortunately, while providers are struggling with access and affordability of insurance coverage, attorneys typically take up to 40 percent of each verdict, plus expenses, which in 2018 diverted over \$70 million from patient care. To offset medical liability risk, many physicians in Maryland practice defensive medicine, which is an overuse of tests and procedures to avoid liability. Defensive medicine accounts for 13 percent of all hospital costs, which results in \$2.1 billion in unnecessary health care spending in Maryland.³

Under Maryland's new Total Cost of Care (TCOC) agreement with the federal government, Maryland's hospitals are working to lower costs and improve overall health. In order to reach aggressive savings and quality targets required under the TCOC agreement, hospitals are identifying opportunities throughout the system, including within the liability climate, to create predictability so that limited funding can be invested into programs that directly improve the health of the community and the patients we serve.

SB 322 is a common-sense bill that would require a claimant to provide notice of a medical liability claim against a provider at least 90 days before filing the claim. This allows both parties

¹ MHA Medical Liability Survey (2018), includes medical liability claims by service type representing about 90 percent of Maryland's hospitals and includes claims from 2004 – 2018.

² AON/ASHRM Hospital and Physician Liability Benchmark Analysis, October 2018. Available at <https://www.aon.com/risk-services/thought-leadership/2018-report-hospital-professional-liability-overview.jsp>

³ Rothberg MB, Class J, Bishop TF, Friderici J, Kleppel R, Lindenauer PK. The Cost of Defensive Medicine on 3 Hospital Medicine Services. *JAMA Intern Med.* 2014;174(11):1867-1868

to avoid prolonged litigation by encouraging a negotiated settlement and/or avoiding senseless and expensive litigation.

For these reasons, we urge you to give SB 322 a *favorable* report.