



Maryland  
Hospital Association

## House Bill 684- Civil Actions-Health Care Malpractice Claims- Expert Witnesses

**Position: Support**

February 19, 2020

House Judiciary Committee

### MHA Position

Maryland's 61 nonprofit hospitals and health systems care for millions of people each year, treating 2.3 million in emergency departments and delivering more than 67,000 babies. The 108,000 people they employ are [caring for Maryland](#) around-the-clock every day—delivering leading edge, high-quality medical service and investing a combined \$1.75 billion in their communities, expanding access to housing, education, transportation, and food.

National data show that Maryland's hospital medical malpractice damages climate is reaching a crisis level. Maryland has half the national average of medical liability claims, yet our state's payouts are double the national average.<sup>1</sup> In fact, payouts for claims above \$10 million increased by 2,179% from 2016-2018 compared to the previous nine years.<sup>2</sup> Inflated life care plans are driving the economic damages being awarded. As a result, Maryland is seeing an exodus of reinsurers willing to write policies in our state. Insurance premiums are skyrocketing for hospitals (some as high as 60% from the prior year) among insurers who still offer policies in Maryland. These trends are not sustainable.

The Daubert standard would align Maryland's threshold for acceptable expert witness testimony for medical liability cases with the standard used in federal courts and the vast majority of other states and the District of Columbia. The *Daubert* standard requires the testimony of an expert witness to be based on 1) sufficient facts or data; 2) is the product of reliable principles and methods; and 3) the principles and methods have been applied reliably to the facts of the case. *Daubert* requires that the conclusion of the expert's witness testimony sufficiently relies upon generally accepted facts or data through a logical/scientific methodology. By utilizing the *Daubert* standard in medical liability cases, the accuracy and validity of expert testimony in Maryland can be more objective, a benefit to both plaintiffs and defendants.

While the Senate version of this legislation was introduced in a different posture, MHA has requested, and the sponsor has agreed, to align the Senate bill with the House bill.

HB 684 adopts a common-sense approach to improve the expert witness testimony process in Maryland. This legislation is an important step toward rescuing Maryland's medical liability climate.

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<sup>1</sup> Aon/ASHRM Hospital and Physician Professional Liability Benchmark Analysis, October 2018

<sup>2</sup> Willis Towers Watson

For these reasons, we urge you to give HB 684 a *favorable* report.

For more information, please contact:

Brian Frazee

Bfrazee@mhaonline.org