

**Testimony of Susan Durbin Kinter, SVP of Claims, Litigation and Risk Management, University of Maryland Medical System, in Support of House Bill 684 Health Care Malpractice Claims Expert Witnesses  
House Judicial Proceedings Committee  
February 19, 2020**

Mr. Chairman and members of the Committee, my name is Susan Kinter. I am the Senior Vice President of Claims, Litigation & Risk Management for the Maryland Medicine Comprehensive Insurance Company, a joint venture between the University of Maryland Medical System and its physician practice group University Physicians, Inc.

**I am here today to urge you to support House Bill 684.**

Why is this bill important? A favorite quote of mine:

**Scientists want to know the evidence behind a statement; they want reproducible tests and verifiable facts. There is a big difference in the thought process of a trial lawyer who is interested not in what's true but what he can convince a jury is true.—Bill Foster**

Medical malpractice litigation produces some of the biggest settlements and verdicts in the world of personal injury lawsuits. It requires the use of expert witnesses to educate the jury about the care, whether the care caused injury and how much the plaintiff should be compensated. Unfortunately, under the current evidentiary standards, medical expert witnesses often do not speak in terms of what “science” has determined to be reasonable care, but all too often, base their opinions on the expert’s own practice. This testimony often is in direct contradiction to established medical studies, publications, protocols and guidelines that are written by medical professionals recognized in their field and that have undergone rigorous peer review scrutiny. Why is this testimony allowed to go to the jury even when it is in direct conflict with evidence based medicine. Because our current evidentiary standard allows it.

How does this relate to big settlements and verdicts? We oversee the professional liability insurance program of hospitals throughout the State of Maryland. The plaintiffs' bar has been very successful in minimizing the effect of the cap on non-economic damages by hugely inflating the economic losses. Because the current evidentiary standard is ineffective in eliminating the medical expert whose opinions are nothing more than, "because I say so", cases that are not founded in verifiable medicine, go to a jury or must be settled for fear of a result like we saw in the Byrom case—biggest med mal verdict in the nation. The cost of funding our insurance program and purchasing reinsurance for FY 20 was almost \$100 Million. \$100 Million dollars that could have and arguably should have been allocated to patient care, community resource and outreach and research. Our cost of insurance jumped 36% in FY 19. We were required to add an additional layer of self-insurance over each of our hospitals and paid more for our reinsurance. Last year several of our re-insurers told us they could not offer us the coverage they previously had afforded us due to the med mal climate in Maryland. We anticipate that this year we will have a very challenging time maintaining the coverage we currently have. We have projected a 25% increase in the cost of re-insurance. This cost will be passed along to all of our hospitals.

Please do not be fooled by the Plaintiffs' bar retort that hospitals should just pay more attention to patient safety and that would solve the medical malpractice woes of health care. We are extremely committed to patient safety. It is our number 1 priority. Unfortunately because of the lax evidentiary standard currently existing in Maryland, every unexpected outcome is deemed to be medical malpractice, no matter how good the care actually was.

It is for these reasons the University of Maryland Medical System urges you to support House Bill 684.

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