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**New Court Rule Will Reignite Lawsuit Venue Shopping and**

## **Again Jeopardize Pennsylvania Citizens' Access to Quality Health Care**

(Harrisburg, PA) The Pennsylvania Coalition for Civil Justice Reform warned that access to quality health care could be in jeopardy if the Civil Procedural Rules Committee of the Pennsylvania Supreme Court recommends a new rule changing where medical liability lawsuits can be filed.

The proposed rule change would result in a flood of suits against doctors, hospitals, and long-term care providers, being filed in the notorious Philadelphia court system, known for its jackpot verdicts, as well as in counties with similar records of unrestrained jury awards. Such a move would roll back a significant reform that helped stem the last medical liability crisis in 2002. Under the "Venue" reform of 2002, medical liability cases must now be filed only in the county where the cause of action, or injury, arose. This rule prevents plaintiffs' lawyers from filing suit in Philadelphia when there is little to no connection with the city and the injury at issue. The proposed rule change pending before the little known Civil Procedural Rules Committee of the Pennsylvania Supreme Court would undo these protections enacted to ensure continued access to health care for Pennsylvanians. Comments on the rule change must be submitted to the Civil Procedural Rules Committee by February 22, 2019.

"This rule change ignores history and puts new mothers, older Pennsylvanians and anyone needing a specialist, at risk of losing access to quality healthcare," said PCCJR Executive Director Curt Schroder. "The practice of venue shopping was an integral part of a health care crisis in Pennsylvania before and should this rule change be adopted; we run the risk of repeating history."

"Venue shopping" was one of the factors underlying the high malpractice insurance premiums in the early 2000s. Back then, maternity wards were closing, medical specialists were fleeing the state, and family practitioners were being squeezed out of the market," Schroder said.

"If history is any indication, this could have devastating effects on patient care," said Danae Powers, MD, president of the Pennsylvania Medical Society. "In the years before we restricted venue shopping, medical liability premiums rose so quickly that some physicians couldn't obtain the insurance they needed to treat patients. Others chose to leave Pennsylvania or retire.

"The news media reported on short staffs at trauma centers and a hospital closing its maternity ward – simply because they couldn't afford their doctors' skyrocketing insurance premiums."

A shrinking physician workforce made it more difficult for patients to get care, says Dr. Powers, especially among “high-risk” physicians such as OB-GYNs and surgeons.

“The Pennsylvania Supreme Court Civil Procedure Rules Committee’s recent proposal to reverse venue shopping rules will compromise patient access to care, drive physicians and nurses away from Pennsylvania, and chip away at the foundation that we have laid to improve the medical liability climate in the state,” said Andy Carter, President and CEO of The Hospital and Healthsystem Association of Pennsylvania.

“A nursing home located in Lackawanna County should not be dragged into a court case in Philadelphia or Allegheny County, simply because the verdicts for plaintiffs may be superior and the awards may be higher,” said R. Sean Buckman, Chairman of the Board at the PA Health Care Association and owner of Carbondale Nursing Home, a 115-bed facility located in Carbondale, PA. “This rule against ‘venue shopping’, in effect for nearly 16 years, has protected long-term care facilities like mine from being forced to defend themselves in venues that barely touch their business.”

“Today, nursing homes face almost the exact crisis that physicians faced in the early 2000s. Providers are under attack from predatory, out-of-state law firms that come to Pennsylvania to file hundreds of lawsuits. Companies are on the brink of financial disaster. Already, we’ve seen long-term care companies sell their buildings, file for bankruptcy, or simply flee the state altogether. Reversing this rule and reinstating ‘venue shopping’ would make the current legal environment even worse for long-term care facilities in Pennsylvania. And it could spell the end for many providers across the state.”

“Should this rule be adopted, lawyers will once again “venue shop” by filing suit in a locale most likely to provide a juicy contingency fee as opposed to where a case should be filed,” said Schroder.

The Civil Procedural Rules Committee should be mindful that the venue rules they want to replace are the product of an effort by all three branches of state government to solve this problem in 2002. The Interbranch Commission on Venue, created under Act 13 of 2002, was comprised of appointments from the legislative, executive, and judicial branches of government. A majority of the Venue Commission recommended that medical malpractice cases only be filed in the county where the cause of action arises. The Pennsylvania Supreme Court adopted the commission’s recommendation and the rule is still working well today.

“The results of the 2002 rule change were immediate and dramatic,” Schroder said. Between 2000 – 2002, [an average of 1204 medical malpractice cases](#) were filed in the Philadelphia courts each year. In 2003, as the result of the venue rule reform, [only half that number](#) of medical liability cases were filed in Philadelphia and the numbers continued to decline each year until just recently. “It didn’t take long for the commonwealth to see that physicians were deciding to stay and continue their practices in Pennsylvania rather than seeking fairer judicial climates in other states,” according to Schroder. Returning those cases to the court that has been designated the [Number 6 Judicial Hellhole](#) in the country by the American Tort Reform Foundation would be a huge step backwards for judicial fairness and medical access.

The Civil Procedural Rules Committee is accepting comment before February 22, 2019. PCCJR urges all Pennsylvanians to contact the committee at [civilrules@pacourts.us](mailto:civilrules@pacourts.us) and tell them to oppose the proposed venue rules and continue to require medical liability cases to be filed where the alleged injury occurs.

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