



MEDICAL SOCIETY OF VIRGINIA Issue Backgrounder

Medical Malpractice Cap

Issue Background

Virginia's medical malpractice cap was passed in 1976 in response to Virginia's medical malpractice crisis. As physicians faced skyrocketing med mal rates, the cap was successful in stabilizing the market and reducing the amount of awards. The cap also helped ensure that insurance companies would continue to write policies in Virginia.

Virginia's cap has been upheld twice by the Virginia Supreme Court. In both cases, the justices cited the existence of the state's Birth Injury Fund as a key element of the cap's constitutionality.

Annual increases of \$50,000-\$75,000 in Virginia's malpractice cap, established by law in 1999, brought the cap to its maximum of \$2 million in July 2008.

At the direction of Sen. Henry Marsh and Del. Dave Albo in 2009, MSV participated in stakeholder talks with the Virginia Hospital and Healthcare Association and the Virginia Trial Lawyers Association. Recognizing the uncertainty that the proposed national health care reform measures may have on physicians and the liability climate, the stakeholders agreed to continue their discussions upon the conclusion of the 2010 General Assembly session.

MSV Talking Points

- » Virginia's physicians strongly encourage the General Assembly to continue to support the medical malpractice cap in its current form.
- » The cap protects the health, safety and welfare of patients by ensuring the availability of health care providers and the adequacy of health care services in Virginia.
- » The \$2 million cap on medical malpractice awards has effectively stabilized malpractice premiums and attracted insurers to the state, helping keep physicians in Virginia.
- » Patients are protected through provisions in Virginia law and certain exemptions to the cap legislation—the cap doesn't apply in cases of gross negligence.

For more information, contact the Medical Society of Virginia's government affairs department by phone at 804 | 343-1185, or visit the MSV Web site, www.msv.org/legislative.

