

Pennsylvania House Bill Introduced to Protect Venue Rule in Medical Professional Liability Cases

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On May 13, 2019, proponents of the current medical malpractice venue rule in the Pennsylvania General Assembly introduced House Bill No. 1063. If passed, this bill would limit the personal jurisdiction of Pennsylvania courts over healthcare providers in medical malpractice liability actions to the county in which the cause of action arose.

This is not the first time the Pennsylvania legislature has attempted to limit venue in medical professional liability actions. The first such effort was made in 2002 in connection with a sweeping medical malpractice tort reform measure – the Medical Care Availability and Reduction of Error (MCARE) Act, 40 P.S. §§ 1303.101, *et seq.* In connection with this tort reform effort the legislature passed 42 Pa. C.S. § 5101.1, which statutorily limited venue in medical malpractice actions to the county in which the cause of action arose (generally, the county where the medical care at issue was provided). After this passing, an association of Pennsylvania plaintiffs' attorneys challenged the constitutionality of the law.

In *North-Central Pennsylvania Trial Lawyers Association v. Weaver*, 827 A.2d 550 (Pa. Cmwlth. 2003), the Commonwealth court held that the venue law unconstitutionally usurped the Supreme Court's exclusive rule-making power. The import of that decision was rendered moot by the fact that the Supreme Court itself enacted a new venue rule – Pa. R. Civ. P. 1006(a.1) – which likewise limited venue in medical malpractice actions to the county where the cause of action arose.

Now that the Supreme Court is considering repeal of the 16-year-old medical malpractice venue rule, once again the legislature is clearly stating that medical providers should only be subject to suit in the county where the cause of action arose. By seeking to alter the scope of Pennsylvania courts' personal jurisdiction over healthcare providers in medical professional liability cases – rather than enacting another legislative venue rule – the General Assembly appears to be looking to avoid constitutional challenges of the type it faced in *Weaver*. However, given the robust efforts underway to repeal the current medical malpractice venue rule, if passed, legislators can expect another round of constitutional challenges to House Bill No. 1063.

If you would like our assistance or additional information regarding this issue, please contact Joshua Gajer (gajerj@whiteandwilliams.com; 215.864.6837) or another member of the Healthcare Group.

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