

Proposed Repeal of Pa.R.C.P. 1006(a.1) Venue Rule in Medical Professional Liability Cases
Opposed by Pennsylvania Senate

The Civil Procedural Rules Committee of the Supreme Court of Pennsylvania has recently proposed repeal of Pa. R. Civ. P. 1006(a.1) – the so-called “medical malpractice venue rule”- which requires medical malpractice actions to be brought in the county in which the cause of action arose. The rule, which effectually prohibits litigants from filing a cause of action sounding in medical malpractice in a county outside of where the alleged harm occurred, has long been viewed as an implicit means of restricting improper forum shopping throughout the Commonwealth. As anticipated, the controversial proposal of the Rules Committee has generated significant opposition by healthcare providers, the insurance industry, the defense bar and, most recently, even the Pennsylvania Senate. Of particular note and concern to these and other citizens of the Commonwealth, is the swift nature with which the Rules Committee has attempted to send the proposal to the Supreme Court for consideration without a thorough review of the potential implications.

One of the Rules Committee’s purported justifications for the proposal is that “[d]ata compiled by the Supreme Court on case filings on medical professional liability actions” evidences their belief that the medical malpractice venue rule “no longer appears warranted.” *See* 48 Pa.B. 7744.

However, on February 5, 2019, the Pennsylvania Senate passed a resolution expressing doubt as to whether the Supreme Court has enough data before it presently to sufficiently assess the impact of the proposal to repeal. By a decisive vote of 31-18, the Senate directed the Legislative Budget and Finance Committee to, at least, conduct a study of the impact of the medical malpractice venue rule and its proposed repeal before the proposal is considered by the Commonwealth’s highest Court. The Senate further requested that the Supreme Court delay action on the proposed repeal of the rule until after the study is completed, no later than January 1, 2020.

Comment: The proposed repeal of the medical malpractice venue rule could obviously have far-reaching impact on many Pennsylvanians, particularly healthcare professionals whom are already subject to significant exposure in high-volume litigation venues such as Philadelphia and Allegheny County. It is hoped that the Senate resolution will, at the very least, ensure that the Supreme Court has all the necessary information and data made available before rendering a fully-informed decision on whether to deny the proposed repeal.

The attorneys at LUCAS AND CAVALIER, LLC will continue to monitor the developments regarding this highly significant proposal, and are happy to discuss the potentially deleterious ramifications of same upon request.