



The Hospital + Healthsystem
Association of Pennsylvania

Leading for Better Health

Protect Pennsylvanians' Health Care **STOP VENUE SHOPPING**

September 2022

Pennsylvanians' health care is being threatened.

During August 2022, the Pennsylvania Supreme Court made an abrupt public policy change by eliminating a rule that has stabilized the state's medical liability system and protected Pennsylvanians' health care for nearly two decades.

The decision reverts to a pre-2003 legal framework that allows personal injury lawyers to move medical liability claims from the counties in which the event occurred to counties that have histories of higher payouts. This practice is called "venue shopping."

The change takes effect for lawsuits filed on or after January 1, 2023. The court will review the decision after two years. *HAP is urging the General Assembly to take action to protect Pennsylvania health care and ensure venue shopping does not return to the commonwealth.*



When venue shopping was allowed in Pennsylvania, the state was one of the least attractive places for health care providers to practice.

We've been here before, with bad outcomes—particularly for obstetrics and specialty care. When venue shopping was allowed Pennsylvania:

- It was difficult for the commonwealth to attract and keep health care providers
- Hospitals were forced to cut services
- Health care providers couldn't afford skyrocketing premiums
- Insurers left the market

All branches of the Pennsylvania state government worked together to end venue shopping in 2002.

Twenty years ago, Pennsylvania's governor, General Assembly, and Supreme Court commissioned a study that concluded venue shopping was the leading cause of a medical liability crisis. Together, they agreed to end the practice. Through law and judicial rule, they required that claims be considered in the county where the alleged medical liability occurred.



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Venue shopping distorted liability trials.

- Certain specialties, such as obstetrics and gynecology, were hit particularly hard. From 1999–2000—just one year—median medical liability awards increased nearly 43 percent
- In 2001, Philadelphia's 117 medical liability trials totaled a higher number than any other county in the nation, even higher than New York, which had 72 trials
- In 2002, medical liability jury verdicts in Philadelphia were more than twice the national average, nearly a quarter were for \$1 million or more
- From 1999–2001, Philadelphia had 87 medical liability cases of \$1 million or more, only slightly fewer than the entire state of California during those same years
- In 2020, Philadelphia's medical liability cases accounted for only 24 percent of the medical malpractice filings statewide, a 71 percent drop in Philadelphia filings from when venue shopping ended in 2002

There is no evidence that verdicts have been unfair, but plenty to suggest venue shopping will worsen Pennsylvania's health care workforce crisis.

- There is no evidence—and, for 20 years, has been no public outcry—that counties in which liability actions are being litigated are not rendering fair results. In fact, from 2003 (when venue shopping ended) through June 2022, Pennsylvania's average medical malpractice payment reported to the National Practitioner Data Bank was \$468,311, nearly 16 percent higher than the national average during that same time
- There have been many positive advancements for patients since venue shopping was eliminated in 2002, including, but not limited to, creating the Patient Safety Authority, passing an apology law, expanding disclosure requirements, and evolving health care quality improvements
- A 2022 actuarial study commissioned by the state Senate Judiciary Committee forecasted the devastating effect should venue shopping return for medical liability cases. The report predicts alarming premium increases in some parts of the state that could result in another medical liability crisis.
- Pennsylvania cannot afford policies that create additional challenges for obstetric units or that cause physicians to leave the state. From 1999–2020, the number of obstetric units in Pennsylvania hospitals fell 40 percent and current estimates suggest that, by 2025, Pennsylvania will need at least 1,000 more primary care physicians to care for its aging population
- Since 2000, the number of hospitals affiliated with health systems has grown by 146 percent. Reinstating venue shopping will encourage lawyers to pull even more cases to Philadelphia and Allegheny counties in search of higher payouts

Data citations available at: <https://www.haponline.org/Resource-Center?resourceid=73>