The Hospital + Healthsystem Association of Pennsylvania

Statement of

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The Hospital and Healthsystem Association of Pennsylvania

for the

Senate State Government Committee

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Good morning. Chairman Dush, Chairman Santarsiero, members of the committee—thank you for the opportunity to speak with you today on this important topic.

Pennsylvanians' access to health care is in a fragile state. Our communities have growing shortages of health care providers. Hospitals face worsening financial headwinds, putting care that patients depend on at risk. You have all seen the headlines about hospital closures and reductions in critical services throughout the commonwealth. Some of you have directly felt the impacts in your districts.

Pennsylvania's medical liability climate—widely considered among the most lopsided nationally—drives and exacerbates these challenges. In the wake of the 2022 rule change allowing "venue shopping" in medical liability cases, excessive verdicts and soaring liability insurance premiums have escalated into a crisis, making it hard for the commonwealth to keep medical providers and high-risk services, like trauma and labor and delivery. If left unchecked, this trend jeopardizes access to care—not just in Philadelphia, which is the epicenter for "nuclear" verdicts—but statewide, and especially in our rural communities.

To be clear, patients and families deserve a fair process for resolving medical liability claims. But that system must have balance to ensure that Pennsylvanians can access high-quality health care. Today, I will make the case for reform that restores balance, keeps providers in the commonwealth, and protects your constituents' access to care.

Despite High Quality and Efficiency, Pennsylvania's Hospitals are at Risk

First, some background.

Pennsylvania hospitals are national leaders in providing high-quality care. The commonwealth ranks in the top quartile for Hospital Compare Star Ratings, patient

experience, and stopping preventable deaths. Our rate of serious complications is among the 10 lowest of all 50 states. Pennsylvania's average readmission rates are below the national average.

Yet hospitals are at a critical crossroads. Federal legislation (H.R. 1) reduces direct payment for care delivered at Pennsylvania hospitals by $4.5 billion over the next decade through direct cuts to their Medicaid reimbursement. Medicaid is one of hospitals' largest payors, yet, due to chronic underfunding, reimburses Pennsylvania hospitals only 71 cents for every dollar of care provided. When the federal cuts are fully phased in, that figure will fall to 64 cents per dollar, further destabilizing hospitals that are already operating on thin margins. In addition, as many as 310,000 Pennsylvanians are expected to lose health insurance through Medicaid coverage and another 150,000 Pennsylvanians are expected to drop health insurance through the individual market if enhanced premium tax credits are not extended. Combined, these changes will result in sicker communities and increased uncompensated care burden on hospitals.

Hospitals are and have been sounding the alarm:

- Fewer than half of the commonwealth's acute care hospitals are operating at margins needed for long-term stability.
- 37 percent are operating at a loss.
- 39 percent have experienced multi-year losses.

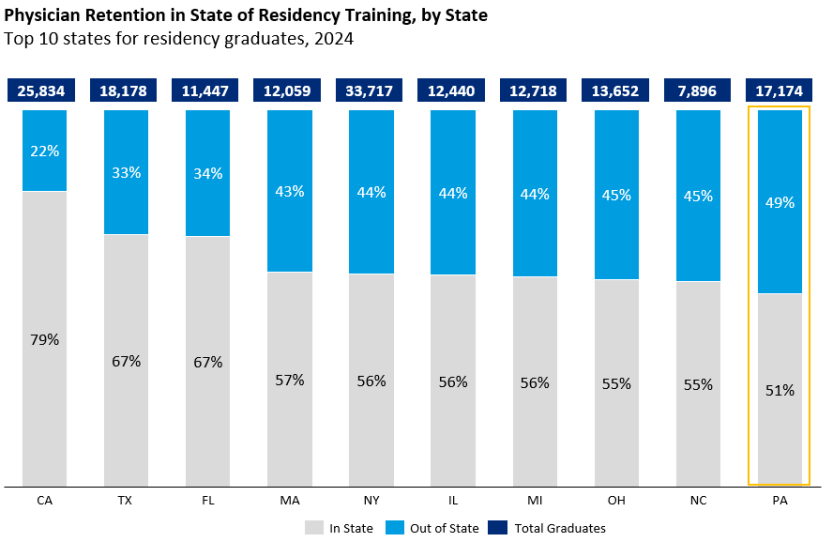
Maintaining accessible and high-quality care while navigating financial headwinds is the imperative of every hospital across the commonwealth. Policies that created the current medical liability climate exacerbate the stability of our health care continuum and are affecting patients' ability to access care today. Holding this forum about the medical liability climate in the commonwealth—and the need for reform—has never been more important.

Pennsylvania's Medical Liability Climate Directly Threatens Access to Care

Pennsylvania's medical liability climate jeopardizes access to care. Escalating costs to secure and maintain insurance coverage, coupled with the risk of nuclear verdicts, discourage physicians and other providers from practicing in our state and make it increasingly difficult to sustain high-risk services. Hospitals need partnership from all levels of government to keep providers and protect access to essential care in our communities.

Without intervention, the commonwealth is losing its competitive footing:

- Nationally, the commonwealth ranks fourth in physician training but keeps only about half of residency graduates.

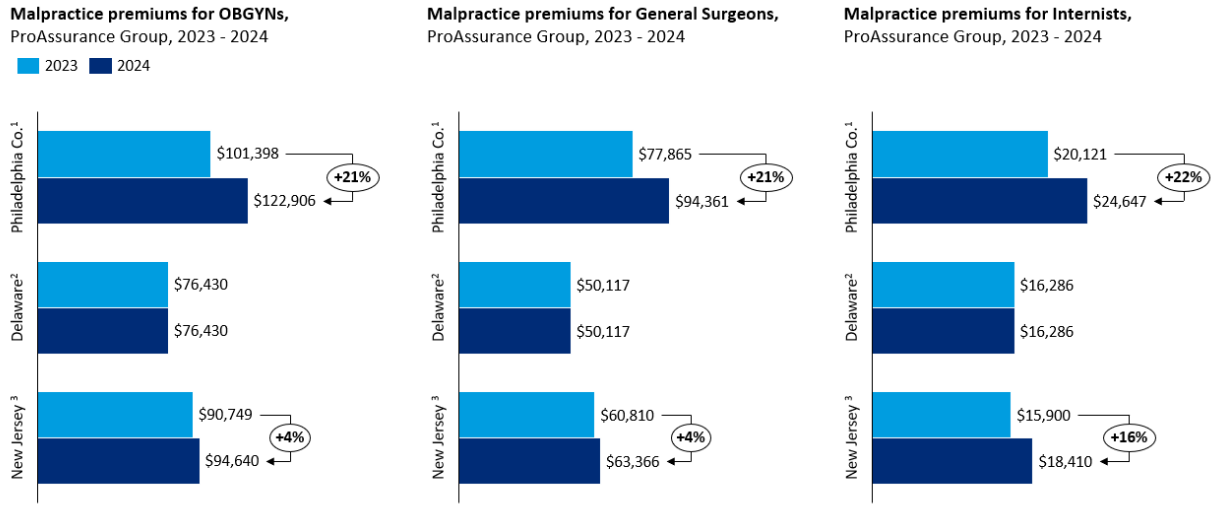


Source: Oliver Wyman

- 35 out of Pennsylvania's 67 counties are designated health professional shortage areas—worsening pressure on existing providers, increasing burnout, and decreasing patient access.
- Access to labor and delivery services—one of the highest-risk specialties for medical liability—is decreasing:
    - 39 labor and delivery units have closed since 2005, including four since the venue rule change.
    - Just short of half of women residing in rural Pennsylvania live more than 30 minutes from a birthing hospital.
    - 16 counties are designated as either a maternity care desert or have "reduced access" to care.

Pennsylvania's medical liability climate is an outlier. A pattern of "nuclear verdicts," or jury awards often in excess of $10 million, places unforeseen pressure on hospital services, creating a no-win legal scenario that forces hospitals to balance the high risk of a jury award with agreeing to settle a case.

As a result, **Pennsylvania has the highest cost per capita of medical liability among all states,** requiring hospitals, most of which are self-insured, to invest in increasing litigation reserves instead of direct patient care, workforce priorities, and community partnerships. In some parts of the commonwealth, liability premiums for high-risk specialties increased by more than 20 percent from 2023–2024 and are significantly higher than those in neighboring states.



Source: Oliver Wyman

Left unchecked and without legislative action, these already high and escalating costs are expected to continue, making it increasingly difficult to maintain certain services.

The 2022 rule change by the Pennsylvania Supreme Court that permits venue shopping medical liability claims has made this a statewide crisis. Now, hospitals throughout the commonwealth are at risk of claims being litigated in venues, like Philadelphia, known for high verdicts. This exposes rural hospitals to extreme verdicts that could shutter facilities and unsustainable increases in medical liability premiums for services, like labor and delivery, that are already difficult to maintain.

Following the venue rule change, there were 544 and 616 medical malpractice cases filed in Philadelphia during 2023 and 2024 respectively, well above the pre-pandemic average of about 410 cases per year. An analysis found that 41 percent of the 2023 cases and 47 percent of the 2024 cases could not have been filed prior to the rule change.

HAP supports efforts to restore balance to the medical liability environment in the commonwealth through Senate Bill 125, which proposes a constitutional amendment to allow the General Assembly to establish venue in civil cases. We also support other reforms, including enacting Certificate of Merit requirements, strengthening peer review protections, establishing apportioned liability standards, setting caps on future damages, and strengthening remittitur involvement and oversight.

Patients and families deserve a fair process for resolving medical liability claims. That system must be balanced to ensure access to high-quality health care for all

Pennsylvanians. HAP stands ready to work with you on policies to ensure we can keep health care providers and maintain access to high-quality care in the commonwealth.

Thank you and I'm happy to take any questions.