
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE RESOLUTION

No. 188 Session of
2019

INTRODUCED BY COSTA, FARNESE, LEACH, MUTH, FONTANA, TARTAGLIONE,
HUGHES, COLLETT, BLAKE AND SCHWANK, JULY 9, 2019

REFERRED TO JUDICIARY, JULY 9, 2019

A RESOLUTION

1 Directing the Legislative Budget and Finance Committee to
2 include additional topics regarding medical malpractice
3 actions in its study provided under Senate Resolution No. 20,
4 Printer's No. 155, adopted February 5, 2019.

5 WHEREAS, The Commonwealth faced a medical malpractice and
6 medical liability insurance crisis in 2002; and

7 WHEREAS, To address the medical malpractice crisis, the
8 General Assembly enacted the act of March 20, 2002 (P.L.154,
9 No.13), known as the Medical Care Availability and Reduction of
10 Error (Mcare) Act (Act 13); and

11 WHEREAS, At the time, Act 13 was considered to be a landmark
12 State law that addressed patient safety, insurance reform and
13 tort reform; and

14 WHEREAS, Act 13 established the Patient Safety Authority,
15 which is responsible for the following:

16 (1) Collecting and evaluating data submitted by medical
17 facilities through their Patient Safety Committees.

18 (2) Coordinating with the Department of Health in making
19 facility-specific and systemwide recommendations;

1 and

2 WHEREAS, Act 13 provides for tort reform, including the
3 following provisions relating to medical malpractice actions:

4 (1) Changes to the collateral source rule.

5 (2) Requiring specific findings by juries regarding
6 economic and noneconomic damages.

7 (3) Reducing verdicts to present value.

8 (4) Requiring certain periodic payments.

9 (5) Requiring expert witnesses to be licensed in the
10 same medical field or specialty;

11 and

12 WHEREAS, Act 13 includes the following insurance reforms:

13 (1) Reducing the amount of liability insurance carried
14 by health care professionals from \$1.2 million to \$1 million.

15 (2) Requiring the Insurance Commissioner to make annual
16 evaluations concerning the strength of the private insurance
17 market in an effort to eliminate the Mcare Fund and
18 assessment.

19 (3) Providing for annual transfers from the Catastrophic
20 Loss Benefits Continuation Fund to the Mcare Fund to
21 subsidize premiums for high-risk specialists;

22 and

23 WHEREAS, The Pennsylvania Supreme Court implemented the
24 following changes to rules relating to medical malpractice
25 actions requiring the following:

26 (1) Venue rule changes requiring an action to be filed
27 in the county where the cause of action arose.

28 (2) Certificates of merit with a statement by a licensed
29 professional that the action was a breach of a professional
30 standard of care;

1 and

2 WHEREAS, All of these actions have contributed to the steady
3 reduction in medical malpractice filings, verdicts and awards
4 across this Commonwealth as evidenced by a reduction in the
5 Statewide average of filings of medical malpractice actions by
6 47% between the average in the years 2000 through 2003 and 2017;
7 and

8 WHEREAS, Recent data collected by the Pennsylvania Supreme
9 Court noted the continued reduction in filings of medical
10 malpractice actions in 2018; and

11 WHEREAS, Based on the comprehensive reforms implemented since
12 2002, the medical malpractice crisis that existed in this
13 Commonwealth has abated; and

14 WHEREAS, It is important to determine the extent to which the
15 comprehensive reforms implemented more than 15 years ago have
16 alleviated this Commonwealth's medical malpractice crisis; and

17 WHEREAS, On February 5, 2019, the Senate adopted Senate
18 Resolution 20, Printer's No. 155 that called for a study by the
19 Legislative Budget Finance Committee regarding the impact of a
20 proposed change to Pennsylvania Rules of Civil Procedure
21 governing venue of medical malpractice actions; and

22 WHEREAS, It is important that the Legislative Budget and
23 Finance Committee add several elements to the study regarding
24 medical malpractice actions and the impact on health care
25 availability and the professional liability insurance
26 marketplace; therefore be it

27 RESOLVED, That the Senate direct the Legislative Budget and
28 Finance Committee to include additional topics regarding medical
29 malpractice actions in its study provided under Senate
30 Resolution No. 20, Printer's No. 155, adopted February 5, 2019;

1 and be it further

2 RESOLVED, That the additional topics in the study include an
3 assessment of the impact of the following on medical malpractice
4 actions:

5 (1) The Patient Safety Authority and patient safety
6 protocols established under Act 13.

7 (2) The insurance reforms under Act 13.

8 (3) Changes to the collateral source rule.

9 (4) Requiring juries to make specific findings regarding
10 economic and noneconomic damages.

11 (5) Reducing verdicts to present value and requiring
12 certain periodic payments.

13 (6) Requiring expert witnesses to be licensed in the
14 same medical field or specialty.

15 (7) Venue rule changes requiring that actions be filed
16 in the county where cause of action arose.

17 (8) Certificates of merit requiring a statement by a
18 licensed professional that the action was a breach of a
19 professional standard of care;

20 and be it further

21 RESOLVED, That the study include a history of claims made to,
22 and payouts made by, the Pennsylvania Professional Liability
23 Joint Underwriting Association from 2003 through present day;
24 and be it further

25 RESOLVED, That the study include a history of claims made to,
26 and payouts made by, the Mcare Fund from 2003 through present
27 day; and be it further

28 RESOLVED, That the Legislative Budget and Finance Committee
29 hold at least one public hearing prior to preparing a report on
30 the study and accept testimony from affected parties, including,

1 but not limited to, representatives of the health care industry,
2 the insurance industry and the legal community; and be it
3 further

4 RESOLVED, That the Legislative Budget and Finance Committee
5 report its findings to the General Assembly no later than
6 January 1, 2020; and be it further

7 RESOLVED, That the Secretary of the Senate transmit duly
8 certified copies of this resolution to the Justices of the
9 Pennsylvania Supreme Court and the members of the Civil
10 Procedural Rules Committee.