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Dear Members of the Senate Consumer Protection and Professional Licensure Committee,

I offer this testimony on behalf of the Pennsylvania Medical Society (PAMED), the Commonwealth's largest physician advocacy organization. On behalf of PAMED's members, physicians, residents, and medical students, thank you for the opportunity to provide our perspective on venue in medical malpractice lawsuits. Pennsylvania's physicians seek restoration of the pre-2023 venue scheme in order to maintain an environment that supports quality medical care for all Pennsylvanians.

I believe it will be helpful to briefly take a step back to examine how we arrived at the current situation. By the late 1990s, the practice of medicine in Pennsylvania was under severe financial strain caused in large part by the negative impact of outsized medical malpractice judgments upon healthcare practitioners, insurers and patients. Both the Pennsylvania Supreme Court and the General Assembly acted to address the problem.

In 2002, the Supreme Court promulgated Rule of Civil Procedure 1006(a.1). This rule restricted the filing of a medical malpractice action to the county where the alleged deficient treatment was rendered. Previously, such cases could also be filed in any county where the defendant physician could be served with court papers. That same year the General Assembly passed, and then-Governor Schweiker signed a statutory provision imposing the same restriction. Unfortunately, that statutory change was invalidated by the courts as the legislation was deemed to have impermissibly dealt with multiple subjects.

Rule 1006(a.1) took effect January 1, 2003, and over the course of the next two decades proved to effectively address the medical malpractice crisis. How effective was the rule? The General Assembly's own Legislative Budget and Finance Committee (LBFC) studied venue for the period 1996 through 2018 and, among other findings, determined that:

- The number of medical malpractice filings decreased by 44.9 percent between the period of 2000-2002 and 2015-2017;
- Compensation for injuries from medical negligence by physicians decreased by 13.7 percent from 2003 to 2018;
- The cost of medical professional liability insurance in Pa. increased significantly from 1996 to its peak around 2007, before decreasing.

The LBFC study acknowledged that a change in the venue rule, coupled with the regionalization of hospital services, would likely have a destabilizing effect on the insurance market, at least in the short term, as insurers would likely have a more difficult time predicting costs.

Unfortunately, despite these findings, the Pennsylvania Supreme Court made the confounding decision to rescind Rule 1006(a.1). The August 2022 decision took effect January 1, 2023. At the time, PAMED condemned the change as an "enormous step backwards that would result in a return to the days of stuffing trial lawyers' pockets to the detriment of a steady and safe health care environment."

As feared, the effects of the repeal of Rule 1006(a.1) were harmful and immediately felt. Philadelphia, the favored venue of plaintiffs, paints a stark picture. 2023 saw 544 medical malpractice cases filed in the Philadelphia Court of Common Pleas, an average of 45 cases per month. That is almost double the 275 cases filed in 2022 with Rule 1006(a.1) in effect. Of those 544 cases filed, 41 percent arose outside of Philadelphia and could not have been filed in Philadelphia absent the venue rule change.

2024 proved even worse with 13% more medical malpractice cases filed in Philadelphia versus 2023. For the year, 2024 saw 616 cases filed in Philadelphia, an average of 51 per month. Of those 616 cases, 46% arose outside of Philadelphia, an increase of 5% over 2023. (Source: Philadelphia court data with analysis by the Pennsylvania Coalition for Civil Justice Reform).

Unsurprisingly, the Philadelphia courts awarded no fewer than 11 nuclear verdicts in 2023 ranging from \$10 million to \$980 million. A nuclear verdict is a case with an award of at least \$10 million. Of those 11 nuclear verdicts, four were medical liability verdicts. And for only the second time in the past 10 years, there were more medical liability verdicts favoring the plaintiff in Philadelphia than the defendants. (PCCJR, Phila. Courts).

Clearly, patients and families impacted by medical injuries deserve fair access to the courts and a fair process. But the setting of such a low bar for access to the Philadelphia courts, courts that have demonstrated themselves to be so distinctly plaintiff-friendly as indicated by the numbers above, heavily stresses the ability to maintain the world class health care system Pennsylvanians have come to expect and deserve.