

Written Testimony of



**Delivered by
Michael Jacobs
President & CEO
October 27, 2025**

**Senate State Government
Committee
SB 125 - Venue**

Chairman Dush and Chairman Santarsiero, members of the Senate State Government Committee: thank you for the opportunity to provide testimony in support of Senate Bill 125 and the issue of venue as it relates to long-term care in Pennsylvania.

My name is Michael Jacobs, and I am the president and CEO of the Pennsylvania Health Care Association (PHCA). We are proud to represent long-term care across the Commonwealth, including government-run, nonprofit, and for-profit nursing homes, as well as personal care homes and assisted living communities. Currently our members employ over 40,000 people across the Commonwealth. In addition, our members serve over 30,000 Pennsylvania seniors in need of care and adults with mental and/or physical disabilities.

Background

Before 2003, venue shopping was a common practice in Pennsylvania, especially in malpractice cases, allowing plaintiffs to file lawsuits in “plaintiff friendly” counties like Philadelphia, where large monetary jury verdicts are the norm. Prior to The Medical Care Availability and Reduction of Error (MCARE) Act of 2002, medical malpractice cases followed the same venue rules as other civil cases, allowing plaintiffs to file a lawsuit in a county where the injury occurred, a county where the defendant could be served or where a corporate defendant, like a nursing home, regularly conducted business. This allowed plaintiffs to file cases in more urban areas, such as Philadelphia County, that were known for larger jury verdicts, even if the medical care was provided

or the injury occurred on the other side of the state.

The practice of venue shopping created a state-wide medical malpractice crisis, of which the long term care industry was not immune. The MCARE Act and the adoption of Rule of Civil Procedure 1006(a.1) were enacted by the legislature to curtail venue shopping. Plaintiffs in medical malpractice actions were required to file their claims exclusively in the county where the alleged cause of action arose and took place. The restriction was implemented to stabilize the medical liability system by reducing the number of malpractice lawsuits filed in “plaintiff-friendly” courts. Following the rule change, Pennsylvania saw a significant drop in the number of medical malpractice claims, particularly in Philadelphia County, according to a 2022 analysis.

On August 25, 2022, the Pennsylvania Supreme Court rescinded the MCARE venue rule with the new standard taking effect on January 1, 2023. This change restored the pre-MCARE expansive venue rules. As a result, venue shopping has returned to the Commonwealth. In the first year after the rule change, Philadelphia had a significant increase in the number of malpractice cases filed, including a large number of cases where the care was provided outside of Philadelphia County. A November 21, 2024 article titled “Medical Malpractice filings surge in Philadelphia,” the *Philadelphia Inquirer* analysis found that 43% of these cases were based on care provided outside the city. In addition, The Unified Judicial System of Pennsylvania shows the statistics as follows:

- 2022 filings: There were 275 medical malpractice cases filed in Philadelphia County during 2022, when the old venue rule was still in effect.

- 2023 filings: There were 544 medical malpractice cases filed in Philadelphia County in 2023. An analysis by the Pennsylvania Coalition for Civil Justice Reform (PCCJR) found that 41% of these 2023 cases involved care that occurred outside of Philadelphia.
- 2024 filings: There were 657 medical liability complaints filed in Philadelphia County.

In contrast, The Unified Judicial System of Pennsylvania published a report indicating that medical malpractice case filings reached a 14 year low in 2015 (from 2003 when the MCARE went into effect). “The latest filings represent a 46.5 percent decline from the number posted in the “base years” of 2000-2002. In Philadelphia, the state’s judicial district with the largest caseload, the decline has been 68.3 percent during the same period.”

While there are legal avenues to request a change in venue to more closely follow the MCARE rules, they are rarely granted by the courts and are cost prohibitive to defendants in many instances. The cost to go through these processes, especially in urban counties like Philadelphia and Allegheny County, are much higher than the rest of Pennsylvania, especially our more rural counties.

The 2022 Supreme Court order included a provision requiring the Civil Procedural Rules Committee to review the amendments two years after taking effect. We are currently past that two year mark with no review provided to the public by the court at this time.

I would like to take a moment and describe the specific challenges to my members. It revolves around 4 key areas: Access to Care, Discouraging New Development, Higher Insurance Premiums, and the impact to Rural Communities.

Issues of venue shopping on the long-term care community

1. **Access to Care** - Our older population in Pennsylvania is the second highest in the nation and the baby boomers are just now getting to the age where they will need the care my members provide. Most refer to it as a “silver tsunami”.

Long-term care is a necessity for many Pennsylvanians. Most long term care facilities are operating on a lean, tight budget and depend on government funding through Medicaid and Medicare for the majority of their revenue. Venue shopping has a significant impact on a facility’s financial stability that only exacerbates the challenges on Medicaid and Medicare funding. We all can agree that providers should be held liable when appropriate, but the frivolous nature of much of the litigation combined with the ability to find favorable jurisdictions, creates an environment where health care providers struggle. When larger than normal verdicts are required to be paid, or settlements keep consistently happening, operating budget choices have to be made. To compensate for rising costs, facilities may have to reduce other services or make cuts to their operational budgets. One large, unplanned verdict could bankrupt a facility due to the razor thin margins. As long-term care facilities close, the people who need those services the most will suffer at a time when we will need all the beds we have, if not more. We can’t afford to create another crisis, especially when we already

know the solution. Critical resources are being taken from the bedside in order to pay for these ongoing legal costs.

2. **Discouraging New Development/Growth** - The high-risk environment can deter new providers and investors from entering the Pennsylvania market, particularly in rural areas where access to care is already limited. As stated previously, we will need all the facilities we have today, if not more, in order to care for the massive need that will be coming in the next few years due to aging baby boomers. Barriers to growth and development only hinder the state's ability to attract high quality providers looking to take care of older Pennsylvanians.
3. **Higher Insurance Premiums** - When insurance companies know there's a chance of huge jury payouts in a lawsuit, they consider it a much bigger risk. This is why they significantly raise premiums, hitting even the safest facilities. For many long-term care facilities who are already on tight budgets, these higher costs are devastating and can force them to close their doors, go bankrupt, or leave the state entirely. Again, as stated earlier, this takes away critical resources from the bedside for purposes that don't improve or provide quality care. Given the propensity for our sector to face runaway jury verdicts, insurance companies routinely force providers to settle cases out of pure fear and an unbalanced judicial system that lacks equality.
4. **Disproportionately affects rural communities** When a facility in a rural county is hauled into a Philadelphia court, it creates a disproportionate financial burden. Expensive travel, overnight stays and time out of the facility place more burdens on a workforce that is already under significant strain, as those roles must be

maintained to offer a continuity of care within the facility. In addition, higher legal fees and outrageous jury awards exacerbates an already strained industry. When you combine these additional unexpected and unplanned costs into their already stressed budgets, it is not sustainable.

The lack of firsthand understanding of rural medical care on the part of an urban jury can compromise the fairness of the legal process and unjustly influence the case's outcome.

5. **Costs and Reimbursements** - As our organization has stated before, the 2023 increased Medicaid reimbursement rates were intended to improve patient care and they are now being siphoned off by litigation costs and higher insurance premiums, rather than being reinvested in facilities and care. Costs that were meant for the bedside are being shifted to expenses that do not benefit the patients and instead line the pockets of trial attorneys.

Real Examples

In order to help paint an accurate picture of impact to long term care providers, I would like to talk about real world experience of some of our members. These will help illustrate the significant financial and operational burdens placed upon our long-term care facilities due to unrestricted venue shopping. These are not minor issues of small dollar figures or slightly increased workloads, but rather exorbitant and time-consuming costs that divert critical resources from resident care and facility improvement.

To put this in perspective, these challenges have necessitated the establishment of entire specialized departments—staffed by expensive legal, risk management, and insurance experts—solely to combat these issues. These are not ancillary or optional costs; they are a direct and additional consequence of the current system.

Specifically, these teams are tasked with battling for proper jurisdiction in lawsuits, managing complex insurance negotiations, and constantly re-evaluating policies and premiums in anticipation of litigation. The financial impact of this is profound. In many instances, the legal fees incurred simply to argue for the correct jurisdiction can exceed the total cost of litigating the underlying case.

These are funds that could otherwise be invested in crucial priorities, such as building maintenance, facility expansion, or the enhancement of resident services. By diverting these resources, the practice of venue shopping directly compromises my members' ability to provide the highest quality of care to our residents.

In a proactive effort to streamline legal proceedings and reduce the costs associated with venue shopping, many of our member facilities have incorporated venue clauses into their admission agreements. However, these legally sound documents are now being systematically challenged by trial lawyers. They are NOT mandatory and refusing to sign them does not impact admission to the facility. These challenges are not based on legal merit, but are an attempt to negate the clauses for the sole purpose of moving litigation to jurisdictions known for high-dollar awards and a plaintiff-friendly environment, such as Philadelphia. Our providers are having to create these clauses that shouldn't be necessary but they are left with no choice due to the repeal of the

protections.

This creates a new and profound layer of financial burden. Our facilities are no longer just facing the legal costs of a lawsuit and the subsequent fight against venue shopping. They are now forced to expend significant resources simply to defend the enforceability of the very venue clauses they created to prevent this abuse in the first place.

This process has become a costly and self-perpetuating cycle. It needlessly drains the financial resources of long-term care providers, ultimately redirecting funds that should be used for resident care. This unsustainable and unacceptable practice solely benefits certain legal interests at the expense of our most vulnerable residents and the facilities dedicated to their well-being.

Allow me to share a particularly egregious example of venue shopping that demonstrates the lengths to which some will go.

A long-term care facility located in the very heart of this state became the target of a lawsuit filed in Philadelphia. This facility has no business, no property, and no employees in Philadelphia. The alleged injury occurred entirely within the mid-state facility.

The justification for this venue was a truly astounding stretch of legal reasoning: the plaintiff's lawyers claimed jurisdiction based on the fact that one of our mid-state employees had rented an apartment in Philadelphia *five years before* being hired by our facility.

Outrageous as it may sound, this argument for jurisdiction was accepted. The case

remained in Philadelphia, proving that the practice of venue shopping is not a matter of proper legal cause but of finding any pretext, no matter how tenuous, to move a case to a more favorable court for higher awards. Sadly, this case is not the exception, but rather the rule - figuratively and literally. I have many more real life examples that I can share with the committee members at your convenience. The point is, this tactic should not be tolerated.

Our members have provided compelling statistical evidence that highlights the direct impact of the court's decision in 2023 to permit venue shopping. These figures demonstrate a clear and troubling trend.

One of our members, for example, reviewed their litigation history over the past five years. Of the 84 cases filed against their facilities within Pennsylvania, but outside of Philadelphia, a staggering 45% were improperly venued in Philadelphia, while only 55% were correctly filed in the county where the facility and the alleged injury were located.

This statistic is not an isolated anomaly; it represents nearly half of all relevant cases being intentionally diverted to a more favorable jurisdiction. These numbers underscore, with objective clarity, the urgent need for venue shopping reform.

Conclusion

The primary motivation for transferring a case from its original jurisdiction to a distant, urban venue is the prospect of a more substantial financial award. The lack of corresponding transfers from urban areas like Philadelphia to rural counties, such as Elk

County, following the recent court rule change highlights this strategic objective.

Allowing venue shopping has a huge and drastic negative impact on the future of long-term care in Pennsylvania. We are only seeing the beginning of the crisis that will impact every aging adult in this Commonwealth. But we know how the crisis ends as history is repeating itself. We are currently experiencing workforce shortages in the long term care industry and are working on solutions both in the private sector and with the legislature. Venue shopping will only make the workforce shortage worse. Furthermore, higher liability insurance premiums, increased litigation costs, and the risk of larger settlements strain budgets and threaten facility solvency. Facilities will be forced to cut services or close entirely, while rural providers face the logistical and financial burden of defending themselves in unfamiliar courts. All of these deteriorating conditions make Pennsylvania a less attractive place for new healthcare providers and capital investment, particularly in underserved communities. Therefore, we support your efforts for a constitutional amendment to prevent venue shopping and keep our long term care facilities open and thriving in Pennsylvania.