



**MEDICAL PROFESSIONAL
LIABILITY ASSOCIATION**

September 26, 2019

The Honorable Muriel Bowser
Office of the Mayor
John A. Wilson Building
1350 Pennsylvania Ave., NW
Washington, D.C. 20004

ATTN: Wayne Turnage, Deputy Mayor for Health Policy

Subject: Recommendations for Expanding District Residents' Access to Medical Care

Dear Mayor Bowser:

On behalf of the more than 50 U.S. medical professional liability insurer members of the Medical Professional Liability (MPL) Association, I am writing in regard to the work of the Commission on Healthcare Systems Transformation.

The Medical Professional Liability Association is the leading trade association representing insurance companies, risk retention groups, captives, trusts, and other entities owned and/or operated by their policyholders, as well as other insurance carriers with a substantial commitment to the MPL line. MPL Association members insure more than 2 million healthcare professionals worldwide—doctors, nurses and nurse practitioners, and other healthcare providers—including more than two thirds of America's private practice physicians. MPL Association members also insure more than 150,000 dentists and oral surgeons, 2,500 hospitals and 8,000 medical facilities around the world.

The MPL Association commends you for your efforts to expand District residents' access to timely medical care. Our member companies have a long-standing commitment to enabling health professionals to provide care wherever they choose to practice. The commitment includes pursuing and maintaining effective medical liability reforms with a track record of improving access to care.

Specifically, we strongly recommend the implementation of reforms that have been tested and tried throughout the United States with tremendous success. These include:

- Reasonable limits on subjective, noneconomic damages with full recovery of all economic losses
- A sliding scale for legal contingency fees to ensure that any damage award or settlement goes primarily to the victim and not an attorney

Recommendations for Expanding Access to Care

- Collateral source rule reform allowing evidence of outside payments to be admissible in court, thereby reducing the potential for healthcare expenses to be paid twice
- A ban on subrogation from collateral sources to ensure victims keep more of their award
- Periodic payment of future damages for awards in accordance with the Uniform Periodic Payment of Judgments Act to ensure victims have the resources to address needs as they arise.

In California, which implemented these gold-standard MPL reforms more than 40 years ago, access to specialty and high-risk services have been protected for decades. This is why California's healthcare professionals, hospitals, and community health centers and clinics continue to support such reforms. More recently, Texas enacted similar reforms and saw immediate dividends in terms of access to care. The Lone Star State now has 25% more physicians than was projected before reforms were enacted, and nearly 60% more high-risk physicians than resided in the state prior to those reforms.

Some states have embraced supplemental reforms that are also demonstrating some success in improving the MPL system and thus providing a better environment in which healthcare may be provided. We would encourage you to consider the following reforms as well:

- Legal protections for compassionate communications to allow healthcare providers to express sympathy following an adverse outcome without fear that such expressions will be used against them in court
- Cooling-off periods before a claim may be filed to allow for issues to be resolved without resorting to litigation
- Certificates of merit to verify that a claim is meritorious before it is filed
- Expert witness standards to ensure that only true experts in the appropriate fields of medicine are eligible to testify in a medical liability case.

By adopting the above-mentioned reforms, the District will create an environment that simultaneously protects the needs of patients, healthcare professionals, and institutions. In so doing, these reforms would also improve access to care for the District's neediest residents.

Thank you for this opportunity to provide feedback. Please do not hesitate to contact me at (301) 947-9000 should you need any further information.

Sincerely,



Brian K. Atchinson
President & CEO