

## THE MCARE ACT IS LEAVING ITS MARK IN PENNSYLVANIA

### *New Report Indicates Decreasing Medical Malpractice Insurance Costs*

By Graig M. Schultz, Esq.

On March 20, 2002, Pennsylvania's Medical Care Availability and Reduction of Error ("MCARE") Act was signed into law. The MCARE Act contained significant reforms concerning the filing of medical malpractice lawsuits in Pennsylvania. Namely, the MCARE Act added provisions concerning patient safety and reporting, medical professional liability informed consent, damages, expert qualifications, and limitations of actions and medical records. These measures were enacted with the hopes that, by reducing the number of medical errors, the annual cost of physicians' medical malpractice insurance would, in turn, decrease.

According to data from the [Pennsylvania Insurance Department](#) ("PID"), the MCARE Act is achieving its intended goals. According to available data, the PID reports that since 2009, premiums from three of the state's most-used carriers – PMSLIC, MedPro, and JUA – have dropped each year. Additionally, in Pennsylvania, physicians are required to have \$1 million in medical malpractice coverage, half of which comes from a private insurance carrier, the other half coming from the state's Medical Care Availability and Reduction of Error Fund ("Fund"). The PID also notes that Fund payouts have also steadily dropped. For example, in 2003, the Fund paid out \$379 million in coverage to health care providers sued for malpractice. That figure decreased by half over the next four years, and has been fluctuating between \$150 million and \$200 million per year ever since 2007.

#### MEDICAL MALPRACTICE LAWSUITS

Further, the number of medical malpractice [lawsuits filed](#) in Pennsylvania has decreased since the MCARE Act's passage in 2002. In Philadelphia County alone, medical malpractice filings have decreased by 68% since 2003. The statewide numbers are also continuing to decrease year after year. In 2012, there were 1,508 medical malpractice filings in Pennsylvania, representing a 10% decrease from 2011.

#### MEDICAL MALPRACTICE VERDICTS

Additionally, in 2012, 135 medical malpractice cases were [tried to verdict](#) in Pennsylvania. The overwhelming majority of these cases – 106 or 80% – resulted in a defense verdict. The counties in and around the Lehigh Valley showed no exception. For example, there were 57 medical malpractice cases filed in Lehigh County in 2012. Five of these cases were tried to verdict, and three resulted in a defense verdict. In Northampton County, a total of 26 medical malpractice cases were filed in 2012. Only one went to verdict, and was a defense verdict. Montgomery County had 95 medical malpractice filings. Nineteen of these cases were tried to jury verdict, and each case resulted in a defense verdict.

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## THE POSITIVE IMPACT ON HEALTH CARE PROVIDERS

The aforementioned numbers demonstrate that the passage of the MCARE Act has resulted in positive outcomes for health care providers. Because the Act imposes stricter requirements on a plaintiff before a suit can be placed into litigation, frivolous lawsuits have all but disappeared. This has caused a significant reduction in Fund payouts, which has resulted in decreased premium costs for providers.

**GRAIG M. SCHULTZ** focuses his practice on all aspects of civil litigation, including commercial litigation, medical malpractice defense, insurance defense, personal injury, and utility law. As a member of the Medical Malpractice Defense Group, Graig has assisted in preparing defenses of medical malpractice cases in state and federal courts. In doing so, he has represented a number of hospitals, physicians, physician practice groups, nurses, and physicians' assistants in professional liability actions.

**Gross McGinley's Medical Malpractice Defense Group** represents health care providers in patient care matters. Our team of experienced attorneys, devoted paralegals, and numerous support staff review all relevant medical records, work with expert witnesses, and devise optimal legal solutions for hospital clients in cases involving malpractice liability. Gross McGinley's attorneys regularly work with risk management teams to investigate claims and handle complex matters of law and medicine. The firm employs skilled litigators, recognized for their successes in the legal community as well as their abilities to negotiate favorable settlements.

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