

## Proposed Amendments to Pennsylvania Medical Malpractice Venue Rules

Recently, the Civil Procedural Rules Committee of the Supreme Court of Pennsylvania has proposed amendments to the Pennsylvania Rules of Civil Procedure that govern venue in medical malpractice actions. The proposed amendments include eliminating Pennsylvania Rule of Civil Procedure 1006(a.1), which requires that a medical professional liability action against a health care provider be brought in the county where the cause of action arose. The proposed changes would instead allow plaintiffs to file medical malpractice lawsuits in any county where a health care provider regularly conducts business.

Pennsylvania Rule of Civil Procedure 1006(a.1) only applies to medical malpractice actions and was initially enacted when the Medical Care Availability and Reduction of Error Fund (MCare) Act was signed into law in 2002. In correlation with the MCare Act, the Supreme Court enacted new rules of civil procedure that governed venue. Rule 1006(a.1) was intended to deter forum shopping in medical malpractice cases. Prior to the passage of the MCare Act, medical malpractice lawsuits were being disproportionately filed in counties where juries were likely to render higher verdicts, such as Philadelphia County.

The explanatory comment to the proposed amendments indicates that the Supreme Court of Pennsylvania seeks to rescind subdivision (a.1) of Rule 1006 because the "current rule provides special treatment of a particular class of defendants, which no longer appears warranted." The Rules Committee notes that data compiled by the Supreme Court evidences a decline in medical professional liability filings for the past 15 years. Moreover, the explanatory comment states that the reduction in filings has resulted in fewer compensated victims of medical malpractice. Essentially, the Rule Committee is seeking to eliminate the venue differentiation between healthcare provider defendants in medical malpractice actions and all other defendants in personal injury actions in Pennsylvania.

**Comment:** Elimination of Rule 1006(a.1) could potentially negatively impact healthcare providers in Pennsylvania. Plaintiffs would no longer have to file a medical malpractice action in the county where the treatment occurred and could instead file suit in a county with a propensity for higher jury verdicts and/or more favorable jury pools. Providers would then potentially be at risk for higher jury verdicts, higher settlements, and increased insurance premiums. Forum shopping could also result in healthcare providers having to travel long distances to depositions and trials. The Civil Procedural Rules Committee is seeking comments, suggestions, and objections to the proposed amendments by February 22, 2019.

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