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Bill to Keep Doctors in West Virginia, Ensure Access to Care to Become Law Today. West Virginia CARE Coalition Praises Efforts of Governor Wise and West Virginia Legislature

CHARLESTON, W.Va.— Governor Wise is scheduled to sign HB 2122, Medical Liability Reform, into law today. The event will be 5:45 p.m. in the Governor's Reception Room on the ground floor of the main capitol building.

Since late October, the West Virginia CARE Coalition, a diverse group of health care, business, and citizen organizations has been working together to encourage the state's policymakers, health care stakeholders and citizens to support medical liability reform.

“West Virginia was in a perfect storm – perhaps the eye of the storm. The rest of the nation was watching to see how West Virginia would weather that storm.” said Steven Summer, President and CEO of the West Virginia Hospital Association. “We are very pleased with this legislation. West Virginia has not been alone in this crisis and it has now established a model for other states to follow. Many states have made attempts to resolve the issue through a series of legislative reforms and we can now add West Virginia to that list. The CARE Coalition looks forward to sharing our experiences with other states across the nation,” he added.

“From the very beginning, the West Virginia CARE Coalition has kept the focus on the patient, health care services and ensuring that all West Virginians have access to physician services when and where they need it,” stated James M. Nester, a spokesperson for the West Virginia Care Coalition. “The bold and courageous actions of the governor and the legislature are a testament of their commitment to patients, citizens and the medical community in West Virginia,” he added.

The bill to be signed into law by Governor Wise establishes limits on damages in medical liability lawsuits, grants physicians provider tax credits on high insurance premiums and creates a physicians mutual company to provide physicians with liability insurance coverage in the future.

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Provisions of what has come to be known as the “CARE Bill,” include but are not limited to the following:

1. Enhancing requirements for experts. Expert witnesses must be actively practicing in the field for which they are testifying at least 60% of their time, they must be licensed by the licensing authority of a state and must have education and training in the particular area of medicine on which they are testifying;
2. Lowers the cap on non-economic damages from \$1,000,000 to \$250,000. However, there are three specific exclusions that will allow the cap to increase to \$500,000. Those exclusions are for (1) wrongful death; (2) permanent substantial physical deformity or loss of use of a limb or loss of a bodily organ system; and (3) permanent physical or mental impairment that prevents the patient from caring for himself or herself;
3. A \$500,000 total cap on economic and non-economic damages is placed on trauma care;
4. Joint liability is eliminated. As a result, individuals will be financially responsible for only their share of the verdict instead of being jointly liable for the entire verdict as is currently the law for individuals who are 25% at fault or more. This change will prevent those who are not at fault from paying for injuries for which they are not responsible; and
5. Collateral sources are mandated to be offset from the verdict after it is rendered. Collateral sources include both private and governmental payors of disability income, medical and hospital expenses such as workers compensation, PEIA, health and accident insurance, casualty or property insurance, Social Security Disability benefits which are obtained for the same injury alleged in the medical malpractice litigation.

“These and other reforms will help bring balance, stability and fairness to our medical liability system in West Virginia,” said Steven Summer, president and CEO of the West Virginia Hospital Association. “More importantly, the West Virginia CARE Coalition believes these types of reforms will put patients first by ensuring access to health care.”