



June 15, 2023

Honorable Brett Hillyer, Chair
Honorable Adam Matthews, Vice Chair
Honorable Members
Ohio House Civil Justice Committee
Ohio Statehouse
Columbus, OH 43215

Re: Interested Party Statement

House Bill 179 (Matthews): Legislation amending the state's statute of repose.

Dear Chair Hillyer, Vice Chair Matthews, and Committee Members:

The Doctors Company, the nation's largest physician owned medical professional liability insurer, thanks you for the opportunity to submit an Interested Party statement on House Bill 179 (Matthews).

The legislation proposes to amend Ohio Revised Code § 2305.15(A) to clarify that the statute of repose is not tolled if a defendant absconds from the state's jurisdiction. This legislation appropriately addresses a concern arising from *Elliot v. Durrani* (2022) where a divided Ohio Supreme Court in a 4-3 opinion held that the statute of repose does not run in these situations. However, as pointed out by Justice Kennedy in her the dissent, the statute of repose has its own self-contained exemptions that do not include leaving the state and is designed to provide certainty regarding potential litigation.

The consequence of *Elliot v. Durrani*, if left unclarified by the legislature, is that whenever a medical provider leaves the state without intending to evade a malpractice action – for example, to retire or practice in another state – he or she potentially will have unending liability exposure.

We believe the legislation will confirm that the appropriate public policy purpose of the statute of repose is to create a limit for commencement of a lawsuit and is consistent with Justice Kennedy's instruction that if a misinterpretation of the statute was made, it is the prerogative of the General Assembly to correct that mistake.

Sincerely,

Remi Stone

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