



OHIO ALLIANCE FOR CIVIL JUSTICE



House Judiciary Committee
House Bill 447
November 5, 2024
Opponent Testimony

Chair Thomas, Vice Chair Swearingen, Ranking Member Synenberg and members of the House Judiciary Committee, thank you for providing the opportunity to give opponent testimony on behalf of the Ohio Alliance for Civil Justice on House Bill 447.

By way of background, the Ohio Alliance for Civil Justice (OACJ) was founded in the mid-1980s to stop lawsuit abuse and promote a common-sense civil justice system in Ohio. The OACJ is comprised of representatives of dozens of Ohio trade and professional associations, small and large businesses, medical groups, farmers, non-profit organizations and local government associations. The OACJ's leadership team includes representatives from the following organizations: Ohio Manufacturers' Association, Ohio NFIB, Ohio Chamber of Commerce, Ohio Council of Retail Merchants, Ohio Hospital Association, Ohio Society of CPAs, and the Ohio State Medical Association. OACJ works to ensure that the civil justice system remains stable and predictable for Ohio's businesses.

Ohio enacted noneconomic damages caps for medical malpractice claims in 2003 and for general tort claims in 2005. The OACJ was a proponent of and supported the enactment of these statutory limits on noneconomic damages.

The medical malpractice statutory caps were enacted to promote fairness and reduce volatility in jury awards. At the time, Ohio was experiencing the loss of health care professionals due to Ohio's unpredictable judicial system. When the Legislature enacted R.C. 2323.43 through Senate Bill 281, the General Assembly made express findings about the need to stabilize the medical liability insurance market, retain physicians, and ensure access to care — particularly in underserved areas. At that time, medical malpractice insurance costs were rising to the point that insurers would no longer offer coverage in Ohio, so doctors and medical professionals had limited options to purchase medical malpractice insurance. Without being able to obtain such insurance, medical professionals began to flee Ohio. Ohio's non-economic damages cap provided a mechanism for more predictability with litigation outcomes, more stability in the insurance market, and ultimately more access to health care providers.

Similarly, noneconomic damages for general tort claims were enacted under Senate Bill 80 to level the litigation playing field for Ohio's large and small businesses. These statutory caps, found in R.C. 2315.18, have been upheld as constitutional by the Ohio Supreme Court.

House Bill 447 increases the noneconomic damages cap for both tort and medical malpractice actions from \$350,000 to \$580,000. Besides a one-time increase, the bill allows for the noneconomic damages caps to be adjusted on an annual basis based on a percentage increase in the Consumer Price Index (CPI) as determined by the U.S. Bureau of Labor Statistics for the 12-month period ending on June 30 of the immediately preceding calendar year.

OACJ opposes House Bill 447 because increasing Ohio's caps will be detrimental to Ohio's businesses and health care providers. Increasing Ohio's noneconomic damages caps through the Consumer Price Index (CPI) could cause the caps to increase significantly in just one year time. The CPI in 2022, at a time when the United States economy was experiencing high inflation, was as high as 9.1% in one month. The potential annual increases of the noneconomic damages caps are unknown on an annual basis and does not provide any stability to Ohio's businesses. An increase of the caps will harm Ohio's small businesses who are already combatting rising costs to remain in business. Also, the mechanism for and application of the annual increase in noneconomic damages based on the CPI will likely create additional litigation.

Additionally, OACJ believes the Legislature should not consider changes to the noneconomic damages caps at this time due to pending litigation in the Ohio Supreme Court. Currently, there are two pending cases that challenge Ohio's noneconomic damages caps— *Paganini v. The Cataract Eye Center of Cleveland* and *Lyon v. Riverside Methodist Hospital*. Both cases challenge Ohio's noneconomic damages cap applicable to medical malpractice claims. The OACJ believes the Legislature should delay making any changes to the caps until after the Ohio Supreme Court's rulings in these cases are released.

Thank you for the opportunity to provide testimony on House Bill 447. I am happy to answer any questions committee members may have.