



November 4, 2025

To: Chair Thomas, Vice Chair Swearingen, Ranking Member Synenberg, and Members of the House Judiciary Committee Ohio House of Representatives Columbus, Ohio

Re: Opposition to House Bill 447 on behalf of the Ohio Association of Civil Trial Attorneys (OACTA)

Thank you for the opportunity to submit this opposition letter regarding House Bill 447. At the outset, OACTA emphasizes that we do not object in principle to reasonable adjustments to Ohio's punitive and noneconomic-damages caps to account for inflation. Our concern is with the bill's current design: its mechanism that automatically indexes annually, its exclusive reliance on the Consumer Price Index without evaluating alternative approaches, the absence of a clear date-certain rule to fix the applicable cap, and that the bill eliminates objective noneconomic-damages limits for certain catastrophic medical-malpractice claims. As drafted, HB 447 would inject instability into settled law and undermine the predictability that Ohio's civil-justice and healthcare systems require.

HB 447 ties Ohio's damage caps to the Consumer Price Index (CPI) and requires the Department of Taxation to adjust them automatically each year. Replacing fixed limits with a fluctuating index would inject continual uncertainty into settlement valuations, premium setting, and verdict exposure—undermining the stability the General Assembly intended when it established damage caps. The statutes affected serve distinct yet complementary purposes. The General Assembly enacted general tort caps to promote predictability and uniformity in noneconomic and punitive damages awards—which are inherently subjective and prone to excessive variability. These limits ensure consistent outcomes while preserving compensation for those alleging harm. Similarly, caps for medical malpractice claims were adopted in response to a healthcare-access crisis driven by unpredictable and excessive verdicts that caused increased malpractice premiums, hospitals to close, and physicians to leave the state. Uncertainty in either framework—general tort or medical malpractice—undermines the legislature's goals of maintaining a stable, affordable civil-justice system and stabilizing the cost of health care delivery. Annual CPI indexing without fixed limits, would replace predictability with constant flux, widening variability in claim valuation, prolonging litigation, and increasing liability and insurance costs across all sectors.

Compounding these concerns, the bill does not specify when the applicable cap becomes fixed—whether on the date of loss, the filing date, the trial date, or the date a court enters judgment. Failing to provide guidance on this subject invites inconsistent results and procedural gamesmanship and will inevitably lead to litigation. If the operative date were filing, parties could voluntarily dismiss and refile to capture a higher index-adjusted cap; if the operative date were trial, the cap could shift during the multi-year life of litigation, producing divergent

outcomes based solely on docket timing. If the General Assembly enacts any periodic adjustment, OACTA recommends that the statute specify that the applicable cap is the one in effect on the date of loss. A clear date-of-loss rule best preserves fairness, prevents manipulation, and maintains the predictability litigants and insurers alike require. It also will avoid concerns over the retroactive application of adjustments occurring after this date.

The bill's automatic CPI mechanism also removes legislative flexibility that allows legislative oversight based on broader economic context. For example, healthcare costs and premiums are already climbing at an unprecedented rate,¹ and an automatic annual increase serves only to add to the instability and push costs even higher. In this environment, an annual escalator tied only to CPI—without guardrails or considering alternative metrics—moves in the opposite direction of the core policy aims that motivated the caps in the first place: stability, affordability, and access to care.

OACTA is also opposed to eliminating the non-economic damage caps for certain catastrophic medical-malpractice injuries. Eliminating this cap altogether would invite subjectivity and inconsistency in awards, destabilizing medical-liability exposure and increasing costs that ultimately affect patient access and provider availability. And again, the General Assembly would do all of this against a backdrop of increased jury verdicts and healthcare premiums set to increase at an unprecedented rate. This upends the distinct rationale behind R.C. 2323.43(A)—to address a healthcare-access crisis aggravated by high, unpredictable non-economic awards. In short, removing the caps, or eroding the predictability that underlies them, would risk reviving the very pressures that once led to premium hikes, hospital closures, and provider and insurance carrier flight.

For these reasons, OACTA respectfully urges the Committee to reject HB 447 in its current form. If the General Assembly determines that an inflationary adjustment is necessary, any mechanism should be carefully tailored to preserve predictability, uniformity, and fairness across both frameworks: it should avoid automatic annual indexing, evaluate alternatives to CPI, include a clear date-of-loss rule to fix the applicable cap, and retain meaningful legislative oversight.

Respectfully submitted,

Elisabeth C. Arko on behalf of the Ohio Association of Civil Trial Attorneys (OACTA)

¹ Recent analyses indicate analysts project premiums have risen approximately 6% in 2025, with households facing increases in the tens of thousands of dollars annually heading in 2026 as enhanced federal premium-tax-credit support expires. *See* Columbus Dispatch, *Ohioans' health insurance was expensive this year. It will cost even more in 2026* (Nov. 3, 2025) <https://www.dispatch.com/story/news/healthcare/2025/11/03/health-insurance-expected-to-rise-9-in-ohio-in-2026/86823685007/>.