

BACKGROUND: The current climate makes healthcare providers a target for aggressive personal injury lawyers and invites frivolous lawsuits.

Kentucky's current liability climate—ranked one of the worst in the nation by the U.S. Chamber of Commerce—makes our health care providers a target for aggressive personal injury lawyers and invites frivolous medical malpractice suits. Trial lawyers view Kentucky as a legal playground, filing huge numbers of frivolous suits each year, driving up insurance costs and wasting limited provider resources on lawsuits instead of patient care.

THE ISSUE: Kentucky is an outlier in the region and its legal liability climate will remain a significant barrier to attracting the best providers.

Several reforms are needed in Kentucky to improve our legal liability climate. Requiring an affidavit of merit would help reduce the number of frivolous claims. Kentucky is also one of the only states without peer review protections, which provides clarity and certainty for best practice discussions amongst providers. Finally, Kentucky health care providers face a very unfortunate catch-22 that often prohibits them from showing compassion for fear of encouraging a lawsuit. Regardless of the facts or situation, an expression of sorrow to a patient or their family can put a physician in legal jeopardy. Yet, if they say nothing of the kind, attorneys paint them as callous and indifferent.

THE SOLUTION: Enhance patient care and reduce frivolous lawsuits.

Senate Bill 20 is an omnibus bill that includes several proven, commonsense reforms to improve Kentucky's broken legal liability system. This legislation will ensure that plaintiffs and defendants stand on a level playing field in medical malpractice claims. Reforms included in SB20:

- **Affidavit of Merit:** requires the plaintiff in a malpractice suit to secure an affidavit of merit from a medical professional, stating the medical standard of care was breached, before a case moves forward.
- **Peer Review Protection:** confidential peer review allows health care professionals to openly and honestly discuss, evaluate and learn from their own performance without the fear that the candid opinions shared by their peers will be used against them in a malpractice lawsuit.
- **Statements of Sympathy:** prohibits aggressive personal injury lawyers from using an apology or other similar statement to a patient or family against a physician in medical malpractice cases.
- **Caps on Attorney Contingency Fees:** places a reasonable schedule on the amount of money personal injury lawyers are allowed to collect from their clients in the form of contingency fees, which are usually between 33-50% of an award or settlement. Establishing a graduated contingency fee schedule ensures that when plaintiffs are awarded damages, the injured party, not the personal injury lawyer, receives the majority of the money.

SB20 Provides a Commonsense Remedy to Ensure Justice for Plaintiffs Without Unfairly Burdening Kentucky's Healthcare Providers