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What Crisis? 2010 Maryland Med Mal Carrier Reduces Premiums 31%

By [Catherine D. Bertram](#)

The following was authored by past President of the Maryland Association for Justice, Wayne Willoughby. It sets forth the plain facts behind the alleged 2004 "medical malpractice insurance crisis" in Maryland and the hard evidence which proves it was all a hoax. Here it is:

by Wayne M. Willoughby, Past President, Maryland Association for Justice

"In 2004, hysteria struck Annapolis. Hordes of physicians in white coats descended upon the State House demanding so-called "tort reform" as the fix to their rising malpractice premiums. The Maryland Association for Justice (then known as the Maryland Trial Lawyers Association) stood virtually alone in opposing the fear-driven throng.

MAJ retained a highly respected insurance analyst, Jay Angoff, to examine the recent malpractice premium hikes. Mr. Angoff was the third-longest serving insurance commissioner for the State of Missouri and previously had served the State of Maryland as the State's insurance expert in other matters. His conclusion: the malpractice premium increases that caused the panic were totally unjustified; the doctors were being gouged by their insurance carrier.

So, MAJ advised the members of the General Assembly that they were being hoodwinked. What was needed was aggressive insurance regulation to prevent carriers from gouging doctors, not new laws depriving injured patients of full and fair justice in our courts.

Nevertheless, swept up in the frenzy, the General Assembly enacted House Bill 2 containing a premium subsidy for physicians and some measures that severely punished injured patients. One such measure lowered the damage cap on wrongful death and survival claims to the point that the life of a malpractice victim in Maryland is now worth at law only 50% of the life of a victim of other forms of negligence.

Time proved MAJ was correct, the malpractice “crisis” of 2004 had been a cruel hoax on the public and the General Assembly. Within seven months after passage of HB 2 – years before HB 2’s tort “reforms” could affect claims payouts and premiums – Maryland largest malpractice carrier, Medical Mutual, announced it would not increase premiums for 2006.

For 2007 the carrier **lowered its base premiums by 8% and announced a \$68.6 Million dividend for its insured physicians.** With a new consumer friendly Governor in office, and his new insurance commissioner at the helm, Medical Mutual’s move was greeted by the Maryland Insurance Administration with a cease and desist order.

As a result, the taxpayers of Maryland were able to **recoup from Medical Mutual the approximately \$84.Million that had been paid to the company** for rate stabilization under HB 2. Medical Mutual’s finances were so superb that **it still issued a \$13.8 Million dividend to physicians and lowered its premiums 8% for 2008 despite paying \$84 Million back to the State.**

Then, in 2009 Medical Mutual **lowered its premiums by 31%** (an 11% base premium reduction and a 20% dividend for renewing physicians). Again, in 2010, Medical Mutual**announced another 31% premium reduction** (11% plus 20%).

Consequently, the events after the 2004 Special Session demonstrate the truth of what MAJ has said all along: **The “crisis” of 2004 was no**

crisis at all. It was little more than a raid on the public treasury and the legal rights of injured patients accomplished through the use of fear to manipulate public opinion and the legislature.

Although the taxpayers of Maryland have been made whole because of the decisive actions of Governor O'Malley's insurance commissioner, and doctors have access to "available and affordable" insurance (per the official Maryland Insurance Administration's report), **there is one group that has not been made whole from the damaging effects of the contrived crisis of 2004: injured patients.**

Now pending before committees of the General Assembly is a cross-filed bill to rectify this situation. **House Bill 622/ Senate Bill 769** will return the damage cap on medical malpractice claims to their pre-hoax levels. If this bill is enacted, injured Marylanders once again would be treated the same under the law irrespective of whether their injury resulted from negligent medical practice, negligent driving, or a defective product.

All people who believe in civil justice should contact the members of the House Judiciary Committee and the Senate Judicial Proceedings Committee and demand that they vote in favor of HB 622/SB769."

About the author:

Catherine Bertram is board certified in civil trials and was recently nominated as a 2010 Super Lawyer for Washington, D.C. Ms. Bertram has 20 years of trial experience and is unique in that she was formerly the Director of Risk Management for Georgetown University Hospital so she brings a wealth of knowledge to her practice including how hospitals should be run and what doctors and nurses can do to protect patients. She is a partner with the firm and devotes her practice to the representation of patients and families of loved ones who have been injured or lost due to medical errors. Ms. Bertram lectures regularly to lawyers and health care providers, nationally and locally, regarding patient safety, medical negligence and other related issues. She has also recently published a chapter in a medical textbook. She can be reached by email at cbertram@reganfirm.com or by phone 202-822-1875 in her office in Washington, D.C.