

SUMMARY OF SB 602 – PATIENT INJURY COMPENSATION FUND

Senate Bill 602 was passed by the West Virginia Legislature on March 12, 2016 with an effective date of July 1, 2016. It amends and reenacts W. Va. Code §§ 29-12B-10, 29-12D-1, 29-12D-3, 55-7B-9, 55-7B-9c, 59-1-11 and 59-1-28a. The bill also creates a new section, W. Va. Code § 29-12D-1a.

The purpose of the bill is to close the Patient Injury Compensation Fund (“PICF”) to claims filed with the Board of Risk and Insurance Management (“BRIM”) on or after July 1, 2016. In order for a claim to be considered for payment from the PICF, it must be hand delivered to BRIM or placed in the U.S. mail addressed to BRIM with a postmark on or before June 30, 2016.

The bill funds the liability of the PICF for claims filed through June 30, 2016 from various sources and amends the cap on civil damages arising from treatment at designated trauma centers.

The bill provides funding for claims received through June 30, 2016 from the following sources: 1) transfer of the Medical Liability Fund at BRIM (a fund established when the BRIM II medical malpractice program was in place over a decade ago) into the PICF and closure of the Medical Liability Fund; 2) an assessment of \$125 on each license issued or renewed by the Board of Medicine and Board of Osteopathy during calendar years 2016 through 2019; 3) an assessment of \$25 on designated trauma centers for each trauma patient treated in calendar years 2016 through 2019 as reported to the WV Trauma Registry; 4) an assessment of 1% on gross amount of settlements and judgments in claims arising under the MPLA from July 1, 2016 through June 30, 2020, to be remitted by circuit clerks or plaintiff’s counsel to BRIM under the specific terms of the bill; and 5) an increase (from \$280 to \$400) in filing fees for medical malpractice law suits, with an increase in the amount sent by circuit clerks to BRIM (from \$165 to \$285) and a redirection of those filing fee transfers from the Medical Liability Fund to the PICF. The assessments established in the bill will terminate at the times set forth in the bill or sooner if the liability of the PICF has been paid or fully funded.

The bill also amends the cap on all civil damages in trauma claims by retaining the current \$500,000 hard cap, but allowing a claimant who has suffered or suffers economic damages in excess of that \$500,000 cap to seek up to an additional \$1 million in economic damages beginning July 1, 2016. This essentially mirrors the current cap structure in trauma cases, but removes (as of July 1, 2016) the PICF as a source of money for the additional \$1 million in economic damages.

NOTE: THIS IS A BRIEF SUMMARY FOR INFORMATIONAL PURPOSES ONLY. ALL PERSONS INTERESTED IN CLAIMS OR LITIGATION UNDER THE MPLA (W. Va. Code § 55-7B-1, et seq.) ARE ADVISED TO CAREFULLY READ SB 602 IN ITS ENTIRETY.