

# Venue shopping

## When plaintiff attorneys hunt for friendly juries

By Kari Adams, Senior Vice President of Claims

Health care in Pennsylvania has become chaotic over the past two years. Due to a startling ruling by the state's supreme court, the number of malpractice claims and the awards given have skyrocketed. The result has been a crushing blow to many of the state's physicians, as well as to rural hospitals that can ill afford big plaintiff payouts or the cost of litigation.

The catalyst for this situation—and a warning to health care providers and health care insurers nationwide—was a 2022 Pennsylvania Supreme Court decision that overturned a 20-year-old statute barring malpractice plaintiffs from “venue shopping.” In this practice, plaintiffs and their lawyers seek to have malpractice trials moved from a location near where the alleged malpractice took place, to one where they believe a jury will be more receptive to their claims and more apt to approve a hefty dollar judgment.

### Significant impact on Pennsylvania health care providers

In Pennsylvania, this decision has led to a flood of malpractice cases that have been moved from more remote parts of the state to Philadelphia. That's because Philadelphia is known for juries who are sympathetic to malpractice plaintiffs and who routinely award multimillion-dollar payouts. A recent analysis of court data by the Philadelphia Inquirer found that 43 percent of 657 medical liability complaints filed in Philadelphia between January 1, 2023 and April 2024 were based on care



provided outside of the city. Almost half of the filed cases came from elsewhere in the state. Payouts, meanwhile, have soared, with the Hospital of the University of Pennsylvania having been hit with a state-record \$183 million malpractice verdict in 2024.

Although Pennsylvania has been the epicenter of the furor over venue shopping in the past few years, it is not alone. A malpractice case recently heard in Seattle—like Philadelphia, a city where jurors are plaintiff-friendly—focused on alleged malpractice committed in the town of Yakima, a distance of some 140 miles away—whose population is more conservative and less wealthy. In Illinois in January, the state supreme court heard arguments in a case aimed at overturning restrictions on venue shopping that have been on the books since 1990. And in Texas, venue shopping was at the center of a bankruptcy case involving Sorrento Therapeutics Inc., a biotech firm developing cancer treatments.

### Venue shopping can warp the legal process

Venue shopping has significant impacts on the malpractice process. We've already noted that it can lead to higher jury awards. In personal injury cases, venue shopping can make even a weak case stronger by moving the trial to a jurisdiction that has no connection to the physician and hospital (making it easier to decide against them), that has a higher standard of living (so is somewhat desensitized to the value of a dollar), or that has a different jury

composition and values. It also can mean that a defendant and his or her legal team may be required to spend days and even weeks far from their homes and practices. This puts additional stress and financial costs on defendants.

Without a doubt, patients and families affected by medical injuries deserve respect and a fair hearing to litigate liability claims. But, a lopsided playing field that allows trial lawyers to shop for venues that disadvantage physician defendants and advantage plaintiff puts everyone's health care at risk. Venue shopping has had real consequences for residents of Pennsylvania, where smaller hospitals and health systems with less resources are especially vulnerable to higher jury awards and higher legal costs. In that state, physicians—especially in high-risk practices such as obstetrics—are moving to states where liability coverage may be less expensive. And several smaller Pennsylvania hospitals have closed, at least in part due to malpractice insurance rates.

## Defending against venue shopping

Leveling the playing field for physicians isn't easy, but there are strategies and tactics that can be deployed for physician defendants. Among them:

- **File early motions to challenge venue:** Defense counsel should rigorously examine whether a selected venue is proper and be ready to file motions to transfer cases to more appropriate jurisdictions.
- **Support legislation that limits the venue to where care was delivered:** Support reforms that tie venue to the location of the alleged malpractice, rather than where a corporate defendant is incorporated or has a registered office.
- **Participate in legislative testimony:** Personal stories from doctors who were pulled into distant venues can humanize the issue and influence policymakers.

- **Track emerging hotspots and adjust underwriting accordingly:** Insurers should monitor where venue laws are shifting and consider adjusting their rates, coverage, or defense strategies in response.

Physicians aren't powerless in the face of venue shopping. By combining legal strategy and legislative advocacy, they can push back against efforts to funnel malpractice cases into plaintiff-friendly jurisdictions. That includes challenging improper venues early, supporting legislative reforms that tie venue to where care was delivered, and raising physician awareness about how these tactics work. With coordinated effort, it's possible to level the playing field and ensure a fairer legal environment for health care providers.

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<sup>i</sup> [Supreme Court considers legality of law banning "venue shopping."](#) Capital News Illinois, January 22, 2025.

<sup>ii</sup> ["The Mall of Litigation: The Dangers and Benefits of Forum Shopping in American Jurisprudence."](#) University of Cincinnati Law Review. November 17, 2021.