

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. **Bill Number:** SB493

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. **Patron:** Stanley

3. **Committee:** Finance and Appropriations

4. **Title:** Medical malpractice; limitations on recovery; certain actions.

5. **Summary:** Eliminates the cap on the recovery in actions against health care providers for medical malpractice where the act or acts of malpractice occurred on or after July 1, 2024, and occurred against a patient age 10 or younger.

6. **Budget Amendment Necessary:** No.

7. **Fiscal Impact Estimates:** Preliminary. See item 8 below.

8. **Fiscal Implications:** Current statute includes caps on the recovery in actions against health care providers for medical malpractice at \$2.65 million for acts that occur on or after July 1, 2024, and \$2.70 million for acts that occur on or after July 1, 2025, with increases each fiscal year until July 1, 2031, after which the amount is capped at \$3.0 million. This legislation would remove those caps on damages for actions of malpractice which occur against a patient age 10 or younger starting July 1, 2024.

The Department of the Treasury indicates the proposed legislation is likely to raise medical malpractice insurance rates, though the total impact is indeterminate. Increases in payments would likely lead to higher premiums charged to state agencies. According to the Department, there have been 10 medical malpractice claims in the last 10 years involving patients age 10 or younger, four of which resulted in loss payments, and one of which was limited by the existing statutory cap. Any potential increases in payments would be paid from the State Insurance Reserve Trust Fund, as the Commonwealth self-insures for medical malpractice claims.

There are two health systems affiliated with public institutions of higher education in the Commonwealth that provide health care services: the Virginia Commonwealth University (VCU) Health System Authority and the University of Virginia (UVA) Medical Center. The dollar amount of any future awards for medical malpractice damages for children under 10 years of age resulting from successful litigation and/or negotiated settlements in excess of the current cap is unknown. Both health systems could face higher litigation costs associated with such cases if additional patients proceed to trial for damages. Additionally, both health systems could experience an increase in medical malpractice insurance premiums to account

for potential increased liability. Increased costs could impact prices charged to patients and liability concerns could impact the availability of certain services.

Operations of the VCU Health System Authority and the UVA Medical Center are fully supported by revenues generated by these entities. The VCU Health System Authority is a separate legal entity that does not have a state appropriation. As a component of UVA, the UVA Medical Center has a sum sufficient state nongeneral fund appropriation in Item 187 of the Budget Bill (HB30/SB30) to reflect the anticipated expenditure of the revenues generated by the Medical Center. Any actual fiscal impact to either entity as a result of this legislation is indeterminate. Additionally, any impact on the nongeneral fund appropriation for the UVA Medical Center from this legislation is indeterminate.

9. Specific Agency or Political Subdivisions Affected: Virginia Commonwealth University Health System Authority, University of Virginia Medical Center, Department of the Treasury.

10. Technical Amendment Necessary: No.

11. Other Comments: None.