
From: KnowledgeCenter
Sent: Tuesday, October 24, 2017 4:35 PM
To: PAMED and Foundation Staff
Subject: Bill on Governor's Desk Would Allow State to Take \$200 Million from the JUA to Balance the Budget



This morning, PAMED learned that [House Bill \(HB\) 118](#) has been presented to Governor Wolf for his signature. If signed into law, the legislation would require the Pennsylvania Professional Liability Joint Underwriting Association (JUA) to pay \$200 million to the state treasury by Nov. 1, 2017 or face abolishment.

The legislature originally directed the transfer of the JUA's funds under HB 1605 (Act 85 of 2016). The JUA refused to consent to the transfer and, instead, opted to file a complaint in federal court. As a result, in July 2017, the legislature made two additional attempts to take the JUA's funds through proposed legislation; one of which was HB 118.

Summary of House Bill (HB) 118

In summary, HB 118 will:

- Require the JUA to pay \$200 million to the state treasury by Nov. 1, 2017.
- Expire, on Dec. 1, the provision in the MCARE Act that created the JUA, if payment is not made by Nov. 1. The expiration of this provision would subsequently abolish the JUA.
- Transfer the JUA's funds to the Department of Insurance (the Department). The Department would be charged with using and administering the funds as previously directed by the MCARE Act. As a result, the Department would be responsible for offering the medical professional liability insurance the JUA was responsible for providing.
- The Department would be required to transfer the \$200 million to the state treasury for deposit into the General Fund as soon as practicable.
- Annually, thereafter, the Commissioner of the Department would be required to determine what is in excess of the money needed to administer the medical professional liability insurance funds. Any excess funds would be transferred to the state's General Fund.

If the Governor signs the bill into law, the provisions specific to the JUA will go into effect immediately.

Pennsylvania's State Budget

The General Assembly approved the state's spending plan on June 30 but has yet to approve a revenue package to fund the nearly \$32 billion budget.

Unfortunately, revenue projections point to the recently approved spending plan as already running a \$2 billion deficit. This shortfall is what has prompted the legislature to look for additional revenue sources as a means of avoiding other, politically unpopular, alternatives such as broad-based tax increases.

Current and Next Steps

Given the state's current fiscal situation, it is very likely that the Governor will approve the bill.

The JUA has received calls from insured physicians asking if their policies would be cancelled mid-term. The JUA has assured these physicians that their policies will not be cancelled.

In addition, the JUA has already filed a complaint in federal court against the state regarding Act 85 of 2016. The complaint alleges several state and federal constitutional violations and seeks declaratory relief to enjoin the enforcement of the state's actions against the JUA.

PAMED supports the JUA's complaint regarding Act 85 of 2016 and, as a *friend of the court* (amicus curiae), has submitted a legal brief in support of the insurance provider's complaint. By providing a historical and present day look at Pennsylvania's medical professional liability environment, the brief argues in support of the important role the JUA plays for Pennsylvania physicians as a stabilizing force in Pennsylvania's professional insurance market.

PAMED will continue to track this issue and will provide additional member updates as soon as possible.

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