

## Georgia Supreme Court overturns tort reform cap

MAG President Gary C. Richter, M.D., says the recent Georgia Supreme Court decision in *Nestlehutt v. Atlanta Oculoplastic Surgery* that overturned the 2005 tort reform law, which put a \$1 million limit on the damages that are associated with the “pain and suffering” that can be awarded during a medical liability lawsuit is a huge loss for patients in the state.

“Georgia’s patients have enjoyed increased peace of mind because physician services have been far more accessible since Senate Bill 3 became law, so we are extremely concerned about this decision,” says Dr. Richter, who also pointed out that there is no cap on “economic” damages (e.g., lost wages or medical expenses) in Georgia.

He explains that tort reform has effectively reduced professional liability premiums and reinforced critical health care needs like obstetrical and general surgery services in the state.

“This decision is unacceptable and unsustainable, and I believe it’s one that’s going to energize and unify the physician community in Georgia,” Dr. Richter says, adding that MAG has already begun assessing its legislative options. “I’m appealing to every physician in this state to join us in our advocacy efforts.”

MAG Executive Director David Cook says that MAG is part of a coalition that is assessing the best way to mitigate the detrimental effects that the Supreme Court decision will have on patients and the practice environment.

Cook says that there are some 1,000 more physicians in Georgia since the tort reform law passed in 2005, according to a study of private practice physicians in the state by the Carl Vinson Institute of Government at the University of Georgia in Athens.

He also explains that according to MAG Mutual Insurance Company, medical liability insurance costs are down by 18 percent in the state since 2005. Furthermore, Cook says that MAG Mutual has reported that its premiums have not increased since 2005. And he points out that the frequency of claims has decreased by 30 percent since 2004, according to MAG Mutual.

“Georgia’s tort reform law has served as a catalyst for increased competition,” Dr. Richter says. “There are now 18 insurance carriers writing \$1 million or more in medical liability insurance policies for physicians in Georgia.”

He says this kind of free-market approach is consistent with MAG’s efforts to promote “patient-centered” health care.

Just a few weeks earlier, the Georgia Supreme Court upheld a case (*Gliemmo v. Cousineau*) that challenged another part of the 2005 tort reform law that requires plaintiffs in medical malpractice actions that arise out of the provision of emergency medical care to prove “by clear and convincing evidence that the physician acted with gross negligence” as a triumph for patients.

Monitor [www.mag.org](http://www.mag.org) for the latest information on tort reform in Georgia.