

Pennsylvania Professional Liability Joint Underwriting Association

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Pennsylvania legislature prepares to seize private funds to balance budget

HARRISBURG, PA, JULY 31, 2017--A bill moving quickly through the Pennsylvania Legislature would seize private assets that ensure health care services are available to Pennsylvania residents and compensate injured patients in medical liability actions. The bill, furthermore, threatens to abolish the nonprofit organization that owns these assets if the organization does not cooperate with the Legislature's planned action.

The bill, House Bill 118, was amended July 26th during a late-night Senate committee session. After the changes, the bill includes language that would seize \$200 million from the nonprofit Pennsylvania Professional Liability Joint Underwriting Association (JUA) and abolish the JUA if the organization refuses to turn over its assets. The bill was approved on July 27 by the full Senate by a vote of 37-13. It is now referred back to the House for what may be its final approval.

"The JUA is not a Pennsylvania agency, is not government funded, and is not state run," said Susan Sersha, JUA President. "The JUA money comes from premiums paid by medical practitioners and institutions for insurance and business operations. If HB 118 becomes law, the state would seize money that it does not own, and to which it has no right."

JUA officials announced today they plan to pursue legal action against the Commonwealth of Pennsylvania if the bill is passed into law. Already, Duane Morris LLP, the JUA's law firm, sent a letter to Governor Tom Wolf and other Pennsylvania officials informing them that a similar bill – SB 446 – was based on the mistaken premise that the JUA is "an instrumentality of the Commonwealth" and thus purported take a private entity's assets to balance the state budget.

"The state created the JUA as a private entity and is not on the hook for any liabilities that JUA incurs, including those resulting from medical liability actions against JUA insureds," Sersha said. "Seizure of the JUA's asset could potentially limit the health care services available in Pennsylvania and leave injured patients with no recourse should a health care provider be found liable for their injuries. If HB 118 is successful, this will be the Great Pennsylvania Heist, setting a precedent that could affect other state-licensed insurance providers, as well as other institutions, such as state-related universities."

Sersha continued, "Imagine your money sitting your bank account and the government taking it because they say you don't need it right now. That's essentially what HB 118 does with the insurance premiums paid to the JUA to pay future medical liability claims."

The JUA, founded in 1976 and financially solvent ever since, helps physicians and other health care providers secure mandatory medical liability insurance required by the Commonwealth to practice medicine. Without this coverage, many of these health care providers would be unable to provide their services to patients across the state who rely on the care they provide."

"We hope that the Pennsylvania Legislature does not set this dangerous precedent," Sersha added.

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