AMCNO Scores a Victory with Ohio Supreme Court Decision

The Academy of Medicine of Cleveland and Northern Ohio (AMCNO) is pleased to announce that on October 25, 2016, the Supreme Court of Ohio reversed a decision by the Eighth District Court of Appeals which had held that once a cause of action vests, or once a plaintiff becomes aware of his or her potential cause of action, the statute of repose is no longer relevant to a determination of the timeliness of a complaint. On behalf of AMCNO, Bret C. Perry and Jason A. Paskan, Esq., with the firm of Bonezzi Switzer Murphy Polito & Hupp, Co., LPA, authored an Amicus brief (friend of the Court) urging that the Supreme Court of Ohio reverse the decision of the Eighth District Court of Appeals.

In Antoon v. Cleveland Clinic Foundation, 2015-Ohio-421, the Supreme Court of Ohio upheld state law—R.C. 2305.113(C)—that requires medical malpractice lawsuits to be filed within four years of the act or omission alleged to have caused the injury. In a 5-1 decision authored by Chief Justice Maureen O’Connor, the Chief Justice wrote, “If a lawsuit bringing a medical, dental, optometric, or chiropractic claim is not commenced within four years after the occurrence of the act or omission constituting the basis for the claim, then any action on that claim is barred.”

R.C. 2305.113(C) was enacted to protect physicians and other medical practitioners from stale lawsuits, expressly precluding lawsuits from being commenced more than four (4) years after the alleged act of negligence. The purpose of the statute of repose was to provide medical providers certainty with respect to the time within which a claim can be brought and after which they may be free from litigation.

This case arose when the Eighth District Court of Appeals reviewed the matter of Antoon v. Cleveland Clinic Foundation, 8th App. No. 101373, 2015-Ohio-421, and threatened this legislation by drastically curtailing the application and impact of the statute of repose in a manner fundamentally inconsistent with the express language of R.C. 2305.113(C).

In Antoon, Plaintiff filed his medical malpractice action on November 13, 2013. Plaintiff alleged multiple causes of action arising from medical care provided on January 2305.113(C). The trial court granted Defendants’ Motion finding that the claims were time-barred by Ohio’s four-year statute of repose pursuant to R.C. 2305.113(C).

On appeal to the Eighth District Court of Appeals, the trial court’s dismissal was reversed, finding that once a cause of action vests, or once a plaintiff becomes aware of his or her potential cause of action, the statute of repose is no longer relevant to a determination of the timeliness of a complaint. The Eighth District concluded that the statute of repose has no application whenever a claim or cause of action vests within the four-year period provided by R.C. 2305.113(C). In so holding, the Eighth District’s ruling cast a shadow of uncertainty regarding the application of R.C. 2305.113(C).

The Amicus brief on behalf of AMCNO encouraged the Ohio Supreme Court to find that R.C. 2305.113(C) applies to any cause of action when the occurrence of the act or omission constituting the alleged medical malpractice takes place more than four years prior to the filing of the lawsuit, regardless of whether a cause of action has vested.

The AMCNO contended that Ohio’s statute of repose was adopted for the purpose of providing certainty to physicians, as well as other medical practitioners, by procedurally barring the filing and/or litigation of stale lawsuits after four years from the date of the alleged medical malpractice. The AMCNO also argued that the statute of repose serves the critical public policy purpose of prohibiting the litigating of medical malpractice actions after such time because documents are no longer retained and memories are no longer fresh.

The statute of repose is critically important to physicians, hospitals, and other medical practitioners across Ohio because it was intended to place a hard and fast expiration date on a potential cause of action. (The AMCNO Medical Legal Liaison Committee tracks cases for the AMCNO Board of Directors that come before the Ohio Supreme Court and could impact or change the law in Ohio concerning our physician members. This case, as well as the Simpkins case on page 6 and the Burnham case on page 8, resulted from deliberation of the AMCNO Medical Legal Liaison Committee.)