

**TESTIMONY BEFORE PENNSYLVANIA SENATE
BANKING AND INSURANCE COMMITTEE RELATING
TO SB 1339
DECEMBER 6, 2011**

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**ON BEHALF OF THE PENNSYLVANIA ASSOCIATION
FOR JUSTICE (PaJ)**

Chairman White, members of the Committee and staff. Thank you for inviting the Pennsylvania Association for Justice (PaJ) to speak today. My name is Scott Cooper, and I am an attorney and partner at the Harrisburg based law firm of Schmidt Kramer. I am also a member of the Pennsylvania Association for Justice (PaJ) and mainly I represent victims injured or killed, and their families, in motor vehicle accidents. I currently serve as its President-elect and Chair of PaJ's Legislative Policy Committee. I am a contributing editor to a leading treatise on the Pennsylvania Motor Vehicle Financial Responsibility Law, authored and argued several important and leading motor vehicle accident cases in the state and federal Appellate Courts. I also have litigated and tried to verdict many jury trials in this Commonwealth and presented testimony to this and other Committees in the General Assembly.

We welcome the opportunity to speak to the Committee today to fully SUPPORT SB 1339 sponsored by Chairman White and explain why its immediate passage is so important. I will elaborate on three (3) reasons why SB 1339 should be passed and then be happy to answer any questions.

Three (3) reasons to pass the legislation are:

1. Passage of SB 1339 will bring the Commonwealth of Pennsylvania's compulsory insurance automobile law into the 21st century by increasing the minimum amount of liability insurance a person is

required to maintain when operating a motor vehicle in the Commonwealth.

2. The Bill increases the chance that a person will be fully and adequately compensated when they are injured or killed by someone who is negligently or recklessly operating a motor vehicle. This is especially important in light of more exclusions being added and enforced in policies.

3. SB 1339 increases the pool of monies that both insurers and health care providers will be able to collect for reimbursement when they treat individuals and there is no primary or secondary payer. Consequently, it also then provides a better opportunity for the injured victim to at least recover some monies after reimbursing the insurer or provider.

I will now explain each of the above reasons why it is necessary to pass SB 1339 immediately.

First, passage of SB 1339 will bring Pennsylvania into line with other states in terms of required minimum liability insurance. Right now, Pennsylvania is one of the lowest in the country. In fact, as Dr. Schwartz notes in his report, Pennsylvania is currently in the bottom fifth of the country.

The current level of minimum insurance in Pennsylvania is antiquated and inadequate. Motor vehicle liability insurance was

mandated in 1974. At that time, the mandatory minimum was \$15,000/\$30,000, which is precisely how it still stands today, almost 38 years later.

In 1984, there was an effort to increase the minimum liability coverage to \$20,000/\$40,000. However, Governor Thornburgh promised a veto, so it remained as it currently stands. Therefore, the Commonwealth still has the same minimal liability coverage as in 1974 when Richard Nixon was President, the average major league baseball player salary was a little over \$40,000 a year, Kellogg's Corn Flakes was 43 cents for an 18 ounce box, Pepsi Cola was 88 cents for 6 12 ounce cans, and a 1.4 ounce Hershey Bar was 15 cents. The current proposal is very reasonable and not unduly burdensome.

Second, this Bill will increase the chance that an innocent person will be adequately compensated when injured by a person who has purchased minimal coverage. Many people are already under-compensated when seriously injured, especially when the wrongdoer has purchased insurance that makes them "legal for less".

Further, there are a host of cases from our Appellate Courts where exclusions contained in policies have been applied to limit recoveries. In fact, one was applied to a first responder in a Pennsylvania Supreme Court case as recently as last month. The increase in SB 1339 will help those situations where the first responder is injured by a negligent or

reckless driver and cannot protect themselves with purchasing any uninsured or underinsured motorist coverage.

Although some premiums will likely increase, as Dr. Schwartz explains, any increase will be modest when compared to, and balanced with, the positive effect it will have on consumers and victims alike. First, a person will now be able, if they so choose, to purchase more uninsured and underinsured motorist coverage at the minimal levels. Second, more monies will be available to pay out of pocket expenses so that a person injured by a driver with minimal coverage will not be left with not only the injury but no way of paying medical bills. Last, the likelihood of a person needing to rely upon the state through DPW or federal government through Medicare to pay medical bills is also decreased.

Third, the Bill will help provide a mechanism for increased reimbursements for insurers who are allowed to subrogate or seek reimbursement and now are unable to collect their monies due to a minimal policy. These plans include but are not limited to workers compensation, HMOs, self-funded ERISA plan, and even DPW and Medicare.

The Bill also lessens the chance that medical provider bills will go unpaid. With increased minimum limits the health insurer and medical provider have a greater pool of recovery to be reimbursed.

There are no other increases in mandatory coverage for uninsured or underinsured motorist, no exclusions are made invalid, and the amounts are easy to understand, explain and implement. People who are the victims of another's wrongdoing already have to deal with injuries, losses and simply the aggravation caused by no fault of their own. Having unpaid losses and being under-compensated only makes matters worse. Please bring Pennsylvania in line with the over 40 states with higher minimums and allow for this modest increase.

I want to thank the Committee for giving us a chance to voice our SUPPORT for SB 1339. The legislation is not only common sense but is right, fair, and balanced for the citizens of this Commonwealth.

Due to the time constraints, I have tried to briefly state PaJ's reasons why this fair common sense legislation should be supported and passed. Thank you for inviting us to share our recommendations with you today. I would be more than happy to answer any questions the Committee members may have.

Statement of Patricia Boyle

My name is Patricia Boyle. I live at 1274 Sterling Street, second floor Philadelphia, Pa 19111. I am 69 years old, single and live alone. I do not own a car. I am retired from my job as a supervisory telephone operator for the Defenders Association in Philadelphia for 35 years.

On March the 22nd 2010, I was walking from my home intending to do some light grocery shopping when crossing 6300 Castor Avenue, I was struck by a Chrysler automobile knocking me to the ground. I lost consciousness and had very little recollection of the accident. I was taken by ambulance to Einstein hospital with head lacerations, severe bruises throughout my body including both legs and elbows, and cracked ribs. Ten stitches were required to close one of my head wounds near my right eye. And because of my cracked ribs, I had difficulty breathing. I am attaching photographs of what I looked like while I was in the hospital. I remained in the hospital as an inpatient for 4 days. After returning home from the hospital, I had home nursing care for an additional week and a half.

According to the doctors, I had sustained a significant concussion and a traumatic subarachnoid hemorrhage.

I continue to experience pain in various parts of my body and I have difficulty with house work and shopping, for example. I try not to go out of the house unless I absolutely have to because of my fear as well as my difficulty in walking around.

The medical bills that I incurred were well in excess of \$35,000. Medicare has paid approximately \$16,000.

I found out from my attorney that the person who hit me and who is responsible for causing me all this injury has the minimum required amount of insurance of \$15,000 which was not even enough to reimburse Medicare. This person has no assets and as far as we know, there was no reason to expect that he would ever have any. His insurance company offered to settle the case for his policy limits of \$15,000. I had no choice, but to accept the offer.

Fortunately, my attorney was able to negotiate with Medicare to accept a compromised amount of what it is that Medicare paid. Also, thanks to my attorney's generosity, he waived his attorney's fees so that I was able to receive at least a very modest amount for all the pain and suffering I have endured and will continue to endure.

I do not believe that it is fair that people are allowed to drive motor vehicles and are only required to have \$15,000 of insurance. This is not financial responsibility. I was victimized twice. First, because of what this person did to me and second because the amount of required insurance is so small.

Please do not let this type of tragedy occur to others and please change the law to require drivers to have more than just \$15,000 of insurance.



Patricia Boyle