

October 3, 2011

The Honorable Jeb Hensarling
Co-Chair
Joint Select Committee on Deficit Reduction
129 Cannon House Office Building
Washington, DC 20515

Dear Representative Hensarling:

The undersigned organizations strongly urge you to include meaningful medical liability reforms in the final legislative package approved by the Joint Select Committee on Deficit Reduction. The inefficiencies of our current medical liability system, escalating and unpredictable awards, and the high cost of defending against lawsuits, including those without merit, contribute to the increase in medical liability insurance premiums, and add billions of dollars to the cost of health care each year, which means higher government spending on Medicare, Medicaid, and other federal health benefits programs, and higher health insurance premiums for patients.

Reforming our costly, inefficient, and unfair liability system will save American taxpayers billions of dollars while protecting patient access to care. The Congressional Budget Office estimates that implementing comprehensive medical liability reforms, including limits on non-economic damages, would reduce the federal budget deficit by \$62.4 billion over 10 years. Also, the National Commission on Fiscal Responsibility and Reform recommended in December 2010 that medical liability reform be part of a solution to reduce the federal budget deficit. We agree, and strongly support liability reforms at the federal level that have a proven track record of success like those enacted in California and Texas as well as supplemental reforms.

We urge you to include the following liability reforms in the Committee's final package, along with language that protects states' rights to maintain or enact their own effective reforms:

- A \$250,000 cap on non-economic damages;
- Collateral source rule reform by allowing evidence of outside payments to be submitted in court and a ban on subrogation by certain collateral sources;
- Language from H.R. 816, the "Provider Shield Act of 2011," that would prohibit new causes of action against physicians and other health care providers based on standards or guidelines specified in the Affordable Care Act (ACA);
- Liability protections for physicians and other health care providers so that evidence of nonpayment or payment adjustments based on the Centers for Medicare & Medicaid Services' (CMS) policies would be inadmissible as evidence in a liability claim or lawsuit to prove liability or establish a presumption of liability on behalf of a physician or other health care provider;

- Liability protections for physicians and other health care providers who provide emergency care or volunteer to treat victims of a disaster by requiring clear and convincing burden of proof; and
- Reforms to require an individual who serves as an expert witness in a liability case to meet standards of expertise and knowledge.

This package of reforms would save taxpayers money while simultaneously improving our health care and legal systems. We look forward to working with you to advance effective medical liability reforms to reduce the federal deficit while continuing to protect patient access to care.

Sincerely,

American Medical Association
 Aerospace Medical Association
 AMDA – Dedicated to Long Term Care Medicine
 American Academy of Dermatology Association
 American Academy of Facial Plastic and Reconstructive Surgery
 American Academy of Family Physicians
 American Academy of Neurology
 American Academy of Ophthalmology
 American Academy of Orthopaedic Surgeons
 American Academy of Otolaryngology-Head and Neck Surgery
 American Academy of Pediatrics
 American Academy of Physical Medicine and Rehabilitation
 American Association of Clinical Endocrinologists
 American Association of Neurological Surgeons
 American College of Cardiology
 American College of Chest Physicians
 American College of Emergency Physicians
 American College of Mohs Surgery
 American College of Osteopathic Family Physicians
 American College of Osteopathic Internists
 American College of Osteopathic Surgeons
 American College of Phlebology
 American College of Physicians
 American College of Radiology
 American College of Rheumatology
 American Congress of Obstetricians and Gynecologists
 American College of Surgeons
 American Gastroenterological Association
 American Geriatrics Society
 American Medical Group Association
 American Orthopaedic Foot and Ankle Society
 American Osteopathic Academy of Orthopedics
 American Osteopathic Association

American Psychiatric Association
American Society for Gastrointestinal Endoscopy
American Society for Radiation Oncology
American Society of Anesthesiologists
American Society of Breast Surgeons
American Society of Nuclear Cardiology
American Society of Plastic Surgeons
American Thoracic Society
American Urogynecologic Society
American Urological Association
Congress of Neurological Surgeons
Heart Rhythm Society
Infectious Diseases Society of America
Medical Group Management Association
North American Spine Society
Renal Physicians Association
Society for Vascular Surgery
Society of Gynecologic Oncology
Society of Hospital Medicine
Society of Nuclear Medicine
The Society of Thoracic Surgeons

Medical Association of the State of Alabama
Alaska State Medical Association
Arizona Medical Association
Arkansas Medical Society
California Medical Association
Colorado Medical Society
Connecticut State Medical Society
Medical Society of Delaware
Medical Society of the District of Columbia
Florida Medical Association Inc
Medical Association of Georgia
Hawaii Medical Association
Idaho Medical Association
Illinois State Medical Society
Iowa Medical Society
Kansas Medical Society
Kentucky Medical Association
Maine Medical Association
MedChi, The Maryland State Medical Society
Minnesota Medical Association
Mississippi State Medical Association
Missouri State Medical Association

Montana Medical Association
Nebraska Medical Association
Nevada State Medical Association
Medical Society of New Jersey
New Mexico Medical Society
Medical Society of the State of New York
North Carolina Medical Society
North Dakota Medical Association
Ohio State Medical Association
Oklahoma State Medical Association
Oregon Medical Association
Pennsylvania Medical Society
Rhode Island Medical Society
South Carolina Medical Association
South Dakota State Medical Association
Tennessee Medical Association
Texas Medical Association
Utah Medical Association
Vermont Medical Society
Washington State Medical Association
West Virginia State Medical Association
Wisconsin Medical Society
Wyoming Medical Society