

**NATIONAL MEDICAL LIABILITY
REFORM COALITION**

January 19, 1999

The Honorable John B. Breaux
Chairman
National Bipartisan Commission on the Future of Medicare
Room 144, Adams Building, Library of Congress
101 Independence Avenue, SE
Washington, DC 20540-1998

Dear Chairman Breaux:

As the National Bipartisan Commission on the Future of Medicare begins to narrow its focus to a few key proposals, we urge you to include sensible changes to the nation's medical liability system in your final report. Medical liability reform can produce significant savings to the Medicare system. Increasing liability costs result in cost increases for Medicare and the current tort system does not resolve claims quickly and fairly to the patient. Sensible medical liability reforms would allow greater access to quality care, more fairly compensate injured patients, and save Medicare hundreds of millions of dollars.

The Current Medical Liability System Does Not Work

- * 70 percent of all malpractice claims result in no payment to the plaintiff and are considered frivolous.
- * The average time from the date of the incident to the resolution of the action has also increased from 49 months in 1985 to almost 60 months in 1997.
- * Less than half of every dollar paid to resolve a claim goes to the patient it is intended to compensate.

The Current Medical Liability System Costs Too Much

- * Total medical malpractice costs increased 48.6 percent from 1990 to 1994, three times greater than the 16.6 percent increase in overall tort costs and well in excess of the rate of inflation for the same period.
- * In 1995 alone, approximately \$737 million was spent to defend meritless claims.
- * Approximately 5% of every dollar that Medicare reimburses for physician services is attributable to professional liability costs.

The Current Medical Liability System Can Be Fixed

- * The U.S. House of Representatives last year passed strong health care liability reforms similar to those contained in California's Medical Injury Compensation Reform Act (MICRA), which was passed in 1975.

The Honorable John B. Breaux
January 19, 1999
Page Two

* Since the time that MICRA went into effect medical malpractice costs in California have stabilized, or been reduced, while they have risen by two or three times in most other states that did not pass health care liability provisions.

* The American Academy of Actuaries reports that a noneconomic damages cap of \$250,000 combined with other reforms is likely to achieve "significant savings in malpractice losses and insurance premiums."

* In 1995, Milliman & Robertson, Inc. indicated that a \$250,000 cap on noneconomic damages will yield a 28 percent reduction in professional liability costs.

* The enactment of MICRA-like reforms at the federal level will significantly reduce Medicare spending. Last summer, the Congressional Budget Office (CBO) estimated that the reforms found in H.R. 4250 would reduce federal direct spending for Medicare and Medicaid by \$1.5 billion over ten years. We believe this is a conservative estimate. CBO found that lower medical malpractice costs would contribute to a slower growth in Medicare spending because changes in malpractice premiums are used to calculate the measures of inflation used to update payment rates for hospitals, physicians and other providers.

The undersigned members of the NMLRC ask you and your colleagues to take this opportunity to contain costs to the Medicare program by recommending medical liability reform. At a minimum, we urge you to recognize in the Commission's final report the costs of the medical liability system to Medicare. Thank you for your consideration.

Sincerely,

American Academy of Dermatology
American Academy of Family Physicians
American Academy of Ophthalmology
American Association of Neurological Surgeons
American College of Obstetricians and Gynecologists
American College of Physicians-American Society of Internal Medicine
American College of Surgeons
American Health Care Association
American Osteopathic Association
American Podiatric Medical Association, Inc.
American Society for Dermatologic Surgery
American Society of Clinical Pathologists
American Tort Reform Association
Congress of Neurological Surgeons

The Honorable John B. Breaux
January 19, 1999
Page Three

Federation of American Health Systems
MMI Companies
National Council of Community Hospitals
Ophthalmic Mutual Insurance Company
Physician Insurers Association of America