

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