



AMERICAN OSTEOPATHIC ASSOCIATION

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February 15, 2011

Peter S. Brunstetter  
Chairman, Judiciary I Committee  
16 W. Jones Street, Room 2022  
Raleigh, NC 27601-2808

Dear Chairman Brunstetter:

**The American Osteopathic Association (AOA) and the North Carolina Osteopathic Medical Association (NCOMA) are writing to ask you to support S. 33 in the Judiciary I Committee.**

This bill would reform state laws relating to medical liability by: providing limited protection from liability to those providing emergency medical care, authorizing the bifurcation of trials on issues of liability and damages in certain actions, limiting the amount of noneconomic damages that may be awarded and authorizing the periodic payment of future economic damages in lieu of a lump-sum payment.

The AOA proudly represents its professional family of more than 70,000 osteopathic physicians (DOs); promotes public health; encourages scientific research; serves as the primary certifying body for DOs; is the accrediting agency for osteopathic medical colleges; and has federal authority to accredit hospitals and other health care facilities. NCOMA is a divisional (state) society of the AOA and represents the interests of osteopathic physicians in the state of North Carolina.

The AOA and NCOMA applaud the Senate Judiciary I Committee for taking up the issue of medical liability reform in North Carolina. The AOA and NCOMA believe that reforming the medical tort liability system is one of the most pressing issues facing our nation. Our members continuously reaffirm medical liability reform as one of the top legislative priorities for the association. We are committed to working with state legislatures to address this important issue, which continues to undermine our nation's health care delivery system.

**This bill provides for numerous reforms which the AOA and NCOMA support, including:** (1) providing protection from liability arising out of the provision of emergency services excepted in the cases of gross negligence, wanton conduct, or intentional wrongdoing on the part of the health care provider; (2) bifurcation of trials for the issues of liability and damages; (3) caps on non-economic damages not to exceed \$250,000 per plaintiff and (4) periodic payments of future economic damages in medical malpractice actions.

**Unobtainable and unaffordable medical liability insurance forces physicians to limit the services they offer their patients, relocate their practices to states with more favorable medical liability laws, or simply retire.** Hospitals are forced to eliminate high-risk departments. Trauma centers are forced to close. Teaching hospitals eliminate residency programs. All of these actions, caused by the medical liability crisis, result in the same outcome: a reduction or loss of

access to health care for patients. Medical students, along with interns and residents, increasingly avoid certain specialties due to the higher liability risks they pose. In addition, physicians are gravitating toward states that have reasonable professional liability laws and, subsequently, affordable medical liability insurance rates. In fact, studies have shown that caps on noneconomic damages increase the number of physicians per capita by 2.2 percent relative to states without caps.<sup>1</sup>

Experts agree that the current tort system has led to an increase in health care costs. The proven reforms contained in S. 33 would help reduce costs, while ensuring that patients who have been injured due to negligence receive just compensation. **Moreover, S. 33 provides for numerous reforms which, if enacted, would help keep physicians in North Carolina where they are needed.** We look forward to working with you on this important public policy matter. Please feel free to contact us to discuss this issue further. You can reach Andrea Garcia, JD, AOA Director of State Government Affairs, at [agarcia@osteopathic.org](mailto:agarcia@osteopathic.org) or (800) 621-1773 ext. 8185.

Sincerely,



Karen J. Nichols, DO  
President, AOA



Slade Suchecki, DO  
President, NCOMA

CC: Martin S. Levine, DO, MPH, President-elect  
Boyd R. Buser, DO, Chair, Dept. of Government Affairs  
James J. Dearing, DO, Chair, Bureau of State Government Affairs  
John B. Crosby, JD, Executive Director  
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Amy Bolivar, Manager, Executive Projects and Communications  
Saundra Stanley, RN, MPH, MBA, Executive Director, North Carolina Osteopathic Medical Association

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<sup>1</sup> William E. Encinosa and Fred J. Hellinger, *Have State Caps On Malpractice Awards Increased The Supply Of Physicians?*, HEALTH AFFAIRS, May 31, 2005, at W5-250-W5-W258.