



May 17, 2005

Honorable «FIRST» «MI» «LAST»  
«ADD\_RM»  
«CITY», «STATE» «ZIP»

Dear «REP» «LAST»:

On behalf of the Illinois Alliance for Retired Americans and its statewide membership of retirees and senior clubs, I am asking you to oppose so-called "malpractice reform" legislation that would undermine the constitutional rights of Illinois residents, the right to trial by jury. Because Illinois' Seniors are more likely to need serious medical care, they need to know that those providing that care are not only qualified, but have a record of competence and effective care delivery. Our members believe that your attention should be directed at improving the quality of care and enforcing professional standards; rather than "blaming the victims" and limiting their rights when they suffer from a malpractice incident.

Non-economic damage caps have a chilling effect on lawsuits brought on behalf of the seniors, because seniors have less income and shorter life expectancy, resulting in smaller recovery for "economic losses".

Last week, the House and Senate revealed serious proposals to cap damages to victims of medical malpractice that would undermine the constitutional rights of Illinois residents, the right to trial by jury. In 1997, the Illinois Supreme Court upheld this right, declaring unconstitutional an entire package of laws that limited the right to jury trial in civil cases, so-called "tort reforms," enacted here in 1995. These included caps on damages.

Despite a very strong prior ruling from our Supreme Court, Illinois once again stands squarely in the cross-hairs of attacks on the civil justice system. With a malpractice insurer with a very dominant market share, an insurance department with extremely weak power to watchdog the industry, an epidemic of medical malpractice and a large population of uninsured that rely on hospitals for primary care, we believe there are numerous insurance industry and patient safety problems that need to be examined and addressed in Illinois. We believe that Illinois citizens are being unfairly blamed and malpractice policyholders are shouldering the burden for many of these problems.

The insurance and hospital industries blame rising malpractice premiums on a lawsuit crisis, an allegation not born out by facts. Lawsuits and payouts have remained relatively constant over the decades, while insurance rates have fluctuated in predictable cycles. The health care industry, assisted by new efforts by the U.S. Chamber of Commerce, have manage to convince doctors in certain part of the state that despite the fact that insurance rates that have stabilized, the legislature must take away the rights of their constituents in order to preserve their access to a physician. They propose capping “non-economic” or “quality of life” compensation to victims of medical malpractice, a devastating proposition to the most severely injured, especially women, children, the elderly, and the poor—those with less “economic loss” from lost wages.

Legislative proposals that cap damages to malpractice victims will not reduce insurance costs. Perhaps more importantly, they will not increase access to physicians, especially for the outrageous number of Illinois families with no health insurance. The prospect of further devastating these families by denying them fair compensation as determined by a jury, should be unthinkable. Here and nationwide, lawsuits have shone a bright spotlight on safety problems in medicine and provided a financial incentive to prevent medical errors from happening a second time. Instead of letting negligent health care providers off the hook, we should be working together to prevent misdiagnosis, prescription drug errors, and other types of medical malpractice.

Regardless of the political climate in a legislature or governor’s mansion, Illinoisan’s should continue to have access to the courts to seek compensation for injuries, accountability for wrongdoing, and justice.

Sincerely,



Hal Gullett  
President  
Illinois Alliance for Retired Americans