

# NAACP

Illinois State Conference

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

May 9, 2005

Dear Senator/Representative:

Last week, the House and Senate revealed 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. 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 managed to convince doctors in certain parts of the state that despite the fact that insurance rates 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.

We believe that Illinois citizens are being unfairly blamed and malpractice policyholders are shouldering the burden for many of these problems. 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. Damage caps have a chilling effect on lawsuits brought on behalf of the unemployed and working poor. 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 the 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. We encourage you to oppose this legislation.

Very truly yours,  
Illinois Conference of Branches NAACP

By: Donald R. Jackson  
DONALD R. JACKSON, JD President

DRJ/jkt C:\jktnaacp  
cc: Ms. Mary Hooks, Secretary, P.O. Box 10138, Peoria, Illinois 61612-1038 (309) 637-1010

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

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May 12, 2005

Dear Representative,

**On behalf of the state's largest public interest organization, we are asking you to please vote NO on HB4074.**

While Citizen Action/Illinois agrees that medical malpractice premiums are high, we firmly believe that the real malpractice crisis is not a lawsuit crisis; the real crisis is the children, women and men who have suffered from malpractice. These people are not just numbers on an actuary table; they are not just underwriting statistics, and they are not just entries on an insurance profit and loss statement. These are real people who have suffered real pain. Many have been injured for life—or lost their lives—because they walked into the wrong doctor's office, or were put in the wrong nursing home, or were prescribed the wrong drug.

Limiting non-economic damages has an especially chilling effect on wrongful death lawsuits for children. Children have no economic worth. If a child dies from medical malpractice or a faulty product, there is no economic loss to recover for the family. It costs money to find out the truth in the case of a death of a child from malpractice. With an arbitrary cap, families will not be able to pay for the needed research and discovery. Even repeat offenders will get off without paying anything to an injured child's family and the loss of legal lawsuits will remove an important measure of the safety of a doctor, hospital or medical procedure.

Non-economic losses are meant to restore to the injured person that which has been lost through the injury. Economic losses are either replacement for lost wages – or a pass thru for expenses – medical, counseling, remodeling, etc. It is the non-economic damages that attempt to compensate for that which we value most – life, companionship, the ability to love, learn, laugh.

We should be dealing with medical malpractice costs by ensuring that hospitals and nursing homes are fully staffed, that care is improved so that there were fewer errors, that incompetent doctors are fully disciplined, and that insurance companies are made to open their books and justify their exorbitant rate increases.

William McNary and Lynda DeLaforge  
Co-Directors  
Citizen Action/Illinois

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