

**Opening Statement
Chairman Dan Burton
Government Reform Committee
Subcommittee on Human Rights & Wellness**

“Dying for Help: Are Patients Needlessly Suffering Due to the High Cost of Medical Liability Insurance?”

October 1, 2003

The Subcommittee on Human Rights and Wellness is convening today to examine the influence of medical liability insurance premiums on the access and overall quality of health care that doctors in the U.S. provide.

Initially, the medical liability system was set up to protect victims of negligence. Today, malpractice litigation is one of the most feared situations in the medical profession. Over the past several years, doctors have experienced a considerable increase in the cost of medical liability insurance premium rates as a result of medical malpractice litigation. Between 1994 and 2001, the typical medical malpractice award increased by an astounding 176 percent to an average of \$1 Million per court case.

The result has been outrageously high malpractice insurance premiums for health care providers, which in turn has led to higher costs for the overall U.S. health care system, as well as reduced access to medical services. In 2001, total premiums for medical malpractice insurance topped **\$21 Billion, more than double the amount from ten years earlier.**

These outrageously high liability insurance premiums and losses have caused many doctors who offer life-saving services to relocate their practices, change specialties, or retire from medicine altogether, thus limiting patients' access to quality medical care. Among the many medical practitioners who have fallen victim to exorbitant medical liability rates, the two most endangered specialties are OB/GYNs and trauma surgeons,

whose successful execution of their duties often makes the difference between life and death.

According to a June 9th article in **Time** magazine, the medical liability crisis is forcing a growing number of doctors and medical students to switch from lawsuit-magnet specialties like obstetrics, neurology, and pulmonology to “safer” ones like dermatology and ophthalmology, in effect, severely limiting the number of doctors willing to perform high-risk procedures like delivering babies and operating on spines.

To further illustrate the gravity of this problem, in South Florida today – where there are no tort reform measures in place – an obstetrician can pay up to \$210,000 a year for medical liability coverage. In Los Angeles, California, the home of my esteemed colleague Diane Watson – and where reforms are in place – that same physician would pay only \$57,000 for liability coverage. That kind of disparity in premiums is the driving force behind this increasingly difficult Nation-wide problem.

And Florida is certainly not the only state in danger of losing specialized physicians. According to an annual study released by the American Medical Association, 19 States are already in a medical liability crisis, and numerous other states are showing signs that they could be headed in that direction.

Fortunately, my home State of Indiana isn’t currently showing signs of the medical liability crisis sweeping across America, mainly because the State Legislature has already passed legislation that would limit doctor’s exposures to liability. But at this time, our State Code does not place caps on non-economic damages, which may result in higher medical liability premiums in the future, and this is a cause of great concern to me and my Hoosier constituents.

What we have to ask ourselves is this: Is it sound public health policy to require a patient to travel up to double the normal distance to access healthcare during an emergency situation because all of the local doctors in their area have moved to another

State? To help gain perspective on this question, the Subcommittee will be hear today from an OB/GYN from Salt Lake City, Utah and the President-Elect of the American Medical Association, Dr. John Nelson, who will discuss how exorbitant medical liability premiums are affecting doctors in the United States.

In addition, Dr. James Tayoun, a Vascular Surgeon based in Philadelphia, Pennsylvania will testify about his experiences with medical malpractice premium hikes and how they led him to create the “*Politically Active Physicians Association*” – a conglomeration of Pennsylvania doctors who are working together to address the unfortunate medical liability situation in their state.

In an attempt to address this problem, my colleagues and I here in the U.S. House of Representatives passed the “HEALTH Act of 2003” (Help Efficient, Accessible Low-Cost, Timely Healthcare - H.R. 5) in March of this year. This legislation, modeled after California’s tort reform laws, would place caps on the amounts that claimants can be awarded on non-economic (pain and suffering) damages, which, according to a U.S. General Accounting Office (GAO) report, is what has fueled the drastic increase in medical malpractice premiums. Representatives from the GAO are here today to share their insights into the findings of their studies on this issue.

Unfortunately, our colleagues in the Senate have yet to pass similar legislation, leaving thousands of doctors vulnerable to additional premium hikes.

The Subcommittee has the pleasure of having with us today former United States Attorney General and the former Governor of the State of Pennsylvania, the Honorable Dick Thornburgh. He is here to provide insight into the medical liability crisis is adversely impacting his home State and other areas in the country, as well as to address the need for tort reform. Mr. Sherman Joyce, the President of the American Tort Reform Association, is also on hand to discuss possible solutions to this problem.

Nation-wide tort reform measures could go a long way toward helping slow the increase of liability insurance premium costs. According to a Department of Health & Human Services report released on July 24, 2002, it is estimated that by putting into place “common-sense” liability reforms, such as placing reasonable limits on non-economic damages, annual health care costs in the United States could be reduced by 5 to 9 percent. This could save the Federal government \$60 Billion to \$108 Billion a year.

I believe it is one of our highest duties as Members of Congress to strive to find the best possible public policy solutions for ensuring all Americans access to the highest quality healthcare system in the world. It is my sincere hope that the information shared today will inspire our friends in the Senate and our counterparts in the State Legislatures to pass common-sense legislation to help alleviate some of the burdens of medical liability on our Nation’s physicians, while at the same time protecting the overall quality of the American health care delivery system.