



March 15, 2017

The Honorable Steve King
U.S. House of Representatives
Washington, DC 20515

Dear Congressman King:

On behalf of the American College of Physicians, I am writing to share our support for H.R. 1215, the Protecting Access to Care Act of 2017. This legislation will provide much needed reforms to our medical liability laws to reduce the costs associated with defensive medicine and improve patient care. We commend you for introducing this legislation and also have one recommendation to improve the bill concerning non-economic damages awarded in medical malpractice lawsuits.

ACP is the largest medical specialty organization and the second-largest physician group in the United States. ACP members include 148,000 internal medicine physicians (internists), related subspecialists, and medical students. Internal medicine physicians are specialists who apply scientific knowledge and clinical expertise to the diagnosis, treatment, and compassionate care of adults across the spectrum from health to complex illness.

The Protecting Access to Care Act includes reforms needed for our medical liability tort system to resolve disputes in a fair manner and provide timely compensation to injured patients. This legislation would set a federal limit on the amount of non-economic damages to \$250,000 and would enact a fair share rule that specifies that in any health care lawsuit, each party shall be liable for that party's share of damages only and not for the share of any other person. It would specify that any state law that imposes different standards on non-economic damages or separate limits on a party's share of damages would supersede any new caps imposed by this legislation regardless of whether the amount imposed by the states is greater or less than those imposed by H.R. 1215. It would limit the amount of contingency fees charged by attorneys in any health care lawsuit and would allow for the introduction of evidence of collateral source benefits regarding any payments that the plaintiff may receive from sources other than the defendant as a result of their injury or illness. It would impose a statute of limitations of three years after the date of an injury or one year after the claimant discovers the injury occurred.

ACP has longstanding policy in support of the provisions outlined in H.R. 1215 and has issued numerous policy papers in support of these reforms. ACP policy supports the imposition of a \$250,000 cap on non-economic damages, limitations on attorney's fees collected in malpractice

lawsuits, limits on punitive damages, including evidence of collateral source benefits, and a statute of limitations on awards for plaintiffs.

We do have one recommendation that will improve the section of the bill associated with a cap on non-economic damages. ACP urges you to amend this section to impose a \$250,000 cap on non-economic damages regardless of any different limit imposed by the states. The College strongly believes that this \$250,000 limit on non-economic damages is the most effective way to stabilize premiums and should be the centerpiece of any legislative proposal to reform the medical professional liability insurance system. This federal standard will level the playing field in all states to ensure the same cap on non-economic damages applies across the country to lower the costs associated with defensive medicine in all regions.

In addition to the reforms outlined in the Protecting Access to Care Act, ACP also urges Congress to use a multifaceted approach to reform the medical liability system to improve patient safety and lower costs. In the last Congress, we supported legislation known as the Saving Lives, Saving Cost Act, introduced by Congressman Andy Barr (R-KY) that would provide safe harbor protections from medical liability lawsuits for physicians who document adherence to clinical practice guidelines. This legislation could be a pathway forward and lead to other, equally innovative reforms such as initiating a national pilot on health courts, which would utilize an administrative process and specialized judges, experienced in medicine and guided by independent experts, to determine cases of medical negligence without juries.

We look forward to working with you to advance this legislation that includes our recommended change for improvement regarding non-economic damages, as well as developing other avenues forward such as safe harbor legislation and health courts. Should you have any questions regarding this letter, please do not hesitate to contact Brian Buckley at bbuckley@acponline.org at 202-261-4543.

Sincerely,

A handwritten signature in black ink that reads "Nitin Damle". The signature is written in a cursive, flowing style.

Nitin S. Damle, MD, MS, MACP
President