



AMERICAN COLLEGE OF PHYSICIANS
INTERNAL MEDICINE | *Doctors for Adults*®

April 2, 2014

The Honorable Andy Barr
U.S. House of Representatives
Washington, DC 20515

The Honorable Ami Bera
U.S. House of Representatives
Washington, DC 20515

Dear Representatives Barr and Bera:

On behalf of the American College of Physicians (ACP), I write to express our support for H.R. 4106, the Saving Lives, Saving Costs Act. We appreciate your efforts and leadership in developing legislation that will provide a bipartisan alternative to reduce the costs associated with the practice of defensive medicine.

ACP is the largest medical specialty organization and second-largest physician group in the United States, representing 137,000 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.

We support H.R. 4106 because it will provide physicians who document adherence to evidence-based clinical practice guidelines with safe harbor protections from medical liability litigation. ACP encourages its members to use evidence-based guidelines and we provide our members with updated recommendations regarding appropriate clinical practices based on the best available evidence to help them deliver the best care possible.

This legislation will give authority to the Secretary of Health and Human Services to designate medical professional organizations with established, published and regularly updated clinical practice guidelines and determine their eligibility to provide and maintain guidelines. The Secretary shall review the clinical practice guidelines and shall as necessary, enter into agreements with eligible professional organizations not later than five years after publication of guidelines and every five years thereafter. We believe that guidelines under safe harbor should be regularly evaluated for relevance and effectiveness by objective stakeholder organizations with physician input and that safe harbors should be sunsetted if it is determined that a clinical practice guideline may have a harmful effect on patient health.

H.R. 4106 will provide a mandatory review of evidence by an independent review panel of three qualified experts in the field of clinical practice, before the costly discovery phase of a medical liability case, if the physician can document adherence to clinical guidelines. The panel will determine if defendant physicians complied with the guidelines, which are to be recognized as the standard of care. The panel should use their medical expertise to determine when departing from recommendations in the guidelines is appropriate for individual patients. Under this legislation, the findings, opinions, and conclusions of the review panel shall be admissible as evidence in any and all subsequent proceedings before the court, including for purposes of

motions for summary judgment at trial. If the panel made a finding that there was an applicable practice guideline that the physician adhered to, the court shall issue summary judgment in favor of the physician unless the claimant is able to show otherwise by clear and convincing evidence.

ACP supports the use of an independent review panel of medical experts to review evidence in a medical liability case. This policy is consistent with our support for health courts, another alternative to resolving medical liability cases, which would also use an independent review panel of specialized judges, experienced in medicine, and guided by independent experts to review evidence and determine outcomes in liability cases without juries. Health courts would provide fair compensation for injuries caused by medical care, reduce costly and time consuming litigation, reduce medical liability costs, provide guidance on standards of care, reduce the costs of defensive medicine, and improve patient safety. We respectfully request that, as H.R. 4106 continues through the legislative process, you consider adding a provision that would authorize a national pilot on health courts.

We appreciate your introduction of this legislation and leadership on this issue. Over the past two decades, Congress has failed to enact reasonable initiatives to help reduce the cost of defensive medicine and improve the quality of care. We hope that this legislation will provide Congress with a bipartisan alternative to traditional medical liability reforms that have, to date, been unable to advance in Congress. We stand ready to work with you in the coming months on H.R. 4106 and hope that it will be approved by Congress and signed into law.

Sincerely,

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

Molly Cooke, MD, FACP
President