

April 25, 2003

The Honorable Albio Sires  
303 58th Street  
West New York, NJ 07093

The Honorable Joe Roberts  
Brooklawn Shopping Plaza  
Brooklawn, NJ 08030

The Honorable Neil Cohen  
985 Stuyvesant Avenue  
Union, NJ 07083

The Honorable Loretta Weinberg  
545 Cedar Lane  
Teaneck, NJ 07666

**Re: A-50 (3R) (MEDICAL MALPRACTICE LEGISLATION)**

Dear Assembly Speaker Albio Sires, Assembly Majority Leader Joe Roberts and Chairpersons Neil Cohen and Loretta Weinberg:

On behalf of the coalition in support of the current version of A-50 as amended by the Senate, we are writing to urge you to post A-50 as soon as possible. After considerable deliberation this legislation, which originated in the General Assembly, was amended and approved by the Senate. We are advocating for the Assembly Leadership to act swiftly to concur with the actions of the State Senate and provide relief to New Jersey's healthcare community and its patients. We applaud your leadership in acting quickly and decisively to pass the initial version of A-50 last year, recognizing the growing medical malpractice crisis in New Jersey.

As you know our coalition has been collectively advocating for medical professional liability insurance relief for over a year. The current version of A-50 is supported by our coalition because the bill:

- Caps the non-economic damages liability for physicians, nurses and some other healthcare professionals at \$300,000 while continuing to allow plaintiffs the ability to collect up to \$1 million from a special state fund for the "pain and suffering" component of their verdict. The legislation makes clear that the fund cannot go into debt and therefore can never be a liability of the state.
- Amends the statute of limitations to 13 years for injuries sustained at birth or by a minor.
- Allows a trial court judge more latitude to reduce excessive jury awards.
- Strengthens the expert witness requirements for an affidavit of merit.
- Provides physicians in healthcare facilities with greater protections when providing emergency care as a "Good Samaritan."
- Provides for discoverability protections for a self-critical analysis while also requiring medical error reporting that will go a long way to helping healthcare

providers aggressively improve patient safety without the fear of self-incrimination.

Our coalition supports each of these provisions combined with others in the bill because they help to establish long-term solutions to address the current instability in the medical professional liability insurance industry. We believe that this long-term relief will provide more predictability that is necessary to provide a sound and viable medical malpractice insurance marketplace.

New Jersey is in the midst of a medical malpractice insurance crisis. According to the American Hospital Association (AHA), New Jersey is one of 18 states in crisis. Specialty physicians like OB/GYNs, orthopedists and surgeons are experiencing dramatic increases in their medical malpractice premiums. Some physicians have even been dropped entirely by their insurance carriers, and others have been forced into early retirement by exponentially increasing malpractice premiums and a rash of failing insurers. State law requires that all physicians in the state of New Jersey maintain malpractice insurance coverage in order to practice medicine, but the cost of medical malpractice premiums for some physicians has reached the point where it might be technically “available” but is no longer “affordable.” Most importantly this situation may create significant barriers to healthcare access for all patients.

Hospitals and other healthcare facilities are also affected by these rate increases. A recent survey by the New Jersey Hospital Association shows that the average Garden State hospital experienced a 50 percent increase in medical malpractice insurance costs in 2002, bringing the average hospital annual premium to \$1.4 million. The multi-year trend shows that the average hospital’s premium has skyrocketed by 207 percent since 1999 and hospital medical malpractice insurance premiums, as a portion of total hospital operating budgets, have doubled in the last four years.

This growing problem has begun to jeopardize patient access to healthcare as some already medically underserved areas of the state have lost many of their OB/GYNs and neurosurgeons. Hospital administrators are struggling to maintain medical staff coverage in their facilities as their physicians grapple with maintaining their insurance coverage. New Jersey doctors are increasingly retiring early, restricting the scope of their practices, or even leaving the practice of medicine. A recent survey of the 1,100 OB/GYNs practicing in N.J. disclosed that 23 percent *are no longer doing OB work* due to the medical malpractice insurance crisis. **The real victims will be the citizens of N.J. if the crisis affects access to care.**

This crisis is also impacting overall business and industry in our state. Increased costs in professional liability insurance for healthcare facilities and direct care providers, increases the cost of delivering care. In turn this impacts employers ability to provide insurance for their employees. According to a recent survey done by the National Federation of Independent Business, in Pennsylvania 60% of the small business owners say rising health insurance costs combined with medical malpractice costs may force them to drop insurance coverage for their employees, while 70% of consumers say they are concerned increases in malpractice costs will cause their health costs to escalate. We do not want to see the same dynamic worsen in New Jersey.

The Hon. Sires, Roberts, Cohen and Weinberg

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Thank you for your time and consideration. On behalf of the coalition, please contact any of the organizations below if you have any questions or concerns.

Sincerely,

Medical Society of New Jersey

New Jersey Hospital Association

The Health Care Association of New Jersey

National Federation of Independent Business

American College of Emergency Physicians, New Jersey Chapter

Orthopaedic Surgeons of New Jersey

New Jersey Academy of Ophthalmology

Alliance of American Insurers

New Jersey Academy of Otolaryngology - Head and Neck Surgery

Vascular Society of New Jersey

New Jersey Citizens United for Healthcare Access

New Jersey Neurosurgical Society

New Jersey State Society of Anesthesiologists

Princeton Insurance Company

New Jersey Academy of Family Physicians

New Jersey Council of Teaching Hospitals

Meridian Health System

Partners in Care

Magellan Health Services

New Jersey Business & Industry Association

Atlantic City Medical Center

cc: Members, New Jersey General Assembly  
Members, New Jersey Senate