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February 12, 2013

The Honorable John Boehner, Speaker
U.S. House of Representatives
1011 Longworth House Office Building
Washington, DC 20515

Dear Speaker Boehner:

We, as members of the Health Coalition on Liability and Access (HCLA), request that you include comprehensive medical liability reforms in any proposal to address our nation's debt or budget deficit. Such reforms have a long history of improving access to care and, equally important for the purpose at hand, have been demonstrated as offering billions in savings to the American taxpayer.

As you are aware, the HCLA is a national advocacy coalition of associations and businesses representing physicians, dentists, allied health care providers, hospitals, health care liability insurers, employers, and health care consumers. We are dedicated to reforming our medical liability system to increase patient safety, ensure that injured patients are compensated quickly and fairly, improve provider-patient communications, and foster an environment for affordable and accessible medical liability insurance. In addition to reforms to benefit patients and their healthcare providers, we seek reforms that will improve the federal government's budgetary imbalance.

The Congressional Budget Office (CBO) has scored several medical liability reform proposals as providing significant budgetary savings. These proposals include:

- A \$250,000 cap on subjective, noneconomic damages (with no limit on economic damages);
- Collateral source rule reform allowing evidence of outside payments to be submitted in court;
- A ban on subrogation by certain collateral sources;
- A fee schedule for attorney contingency fees to ensure victims of negligence receive the funds they need;
- Periodic payments of future damages to protect patients' long-term interests; and,
- A reasonable statute of limitations.

In its March 2011 budget options document ("Reducing the Deficit: Spending and Revenue Options"), CBO scored a package of comprehensive medical liability reforms as providing \$62.4 billion in savings over 10 years (see attached excerpt of the CBO report) – savings which will help Congress and the President achieve shared deficit reduction goals.

In addition to the proven reform package mentioned above, we also recommend additional federal reforms that we believe would reduce the cost of health care and thus lower federal expenditures on health care programs. These include a certificate/affidavit of merit requirement (to ensure that only

legitimate medical liability cases are filed in court), expert witness reforms (to prevent professional witnesses from providing inaccurate testimony in such cases), and “apology protections” (to improve patient-provider communications). Furthermore, we request you adopt the language of H.R. 816 from the 112th Congress (the Provider Shield Act), clarifying that the Patient Protection and Affordable Care Act does not create new standards of care for medical liability lawsuits (in order to prevent a possible explosion of medical liability lawsuits that could be inadvertently triggered by the new law). Each of these reforms would save taxpayers money while simultaneously improving our health care and legal systems.

We commend you for your dedication to helping the nation resolve its fiscal crisis. As you move forward with this critical task, we stand ready to provide you any information you need on the budgetary benefits of medical liability reform.

American Academy of Otolaryngology—Head and Neck Surgery
American Association of Neurological Surgeons
American Association of Orthopaedic Surgeons
American College of Cardiology
American College of Osteopathic Surgeons
American College of Surgeons
American Congress of Obstetricians and Gynecologists
American Medical Association
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