

NABIP Position on Tort Reform

American's health care delivery system is in crisis. Doctors are leaving their practices because of liability concerns and the inability to obtain adequate malpractice insurance. Medical malpractice insurance costs are increasing at a rate where many physicians are forced to leave their practices and move to other states, leaving millions of rural Americans with little or no access to adequate and affordable health care. The threat of lawsuit abuse often forces doctors to perform invasive and expensive tests in order to protect themselves. Liability is estimated to cost the country \$22 billion a year and that cost is passed directly on to the consumer in the form of higher health insurance premiums.

Since 1986, 45 states and the District of Columbia have enacted tort reform legislation. There are very good reasons why states have taken these actions. Frivolous lawsuits are expensive. The National Association of Benefit and Insurance Professionals believes the action the states have taken to limit lawsuits is important to patient access and safety, and to keeping the cost of health care and health insurance affordable. These reforms include:

- limits on non-economic damages (pain and suffering) limited to \$250,000;
- limits on attorney's fees;
- fair allocation of damages, in proportion to a party's degree of fault;
- disclosure to juries if plaintiffs sue for medical expenses and loss of income, and the expenses have already been paid by an insurance company;
- limits on the number of years a plaintiff has to file a healthcare liability action to ensure that claims are brought while evidence and witnesses are available;
- allowing patients to recover for future economic damages such as future medical expenses and loss of future earnings but also allowing defendants to pay large future awards over a period of time;
- limits on punitive damages to be the greater of two times the amount of economic damages awarded or \$250,000.

NABIP believes that unlimited lawsuits are not the answer to accountability of either health plans or providers. We strongly believe that state action on tort reforms is a model for federal reform, and encourage the federal government to protect access to health care and health insurance by placing caps on damages as well as other ideas adopted at the state level.