

James L. Madara, MD  
Executive Vice President, CEO

American Medical Association  
515 N. State Street  
Chicago, Illinois 60654

[ama-assn.org](http://ama-assn.org)

(p) 312.464.5000

(f) 312.464.4184

March 5, 2013

The Honorable Sheila Y. Oliver  
Speaker, New Jersey General Assembly  
15-33 Halsted Street, Suite 202  
East Orange, NJ 07018

Re: American Medical Association Support for Assembly Bill 1831

Dear Speaker Oliver:

On behalf of the American Medical Association (AMA) and our physician and student members, I am writing to urge your support for Assembly Bill (A.B.) 1831. Medical liability reform is a crucial issue, and A.B. 1831 offers to improve the liability climate for New Jersey patients and physicians.

The current medical liability system adversely affects patients in many ways. It reduces patients' access to health care – particularly high risk procedures. It hinders patients' communication with their physicians. It adds to the cost of patients' health care expenses, and it forces patients to go through additional tests and procedures due to a system that encourages physicians to practice defensive medicine. A.B. 1831 would address these patient concerns for the better.

The current medical liability system has a detrimental effect on physician practices, as well. According to results from a 2010 AMA survey, 61 percent of physicians age 55 and older have been sued at some point during their careers, and nearly 40 percent have been sued two or more times. Among surgeons age 55 and older, nine out of 10 have been sued. Even more remarkable, 51 percent of obstetricians and gynecologists under age 40 have been sued. These statistics are even more alarming after reviewing how such claims are resolved. According to a 2006 *New England Journal of Medicine* article, researchers found that no injury had occurred in three percent of the claims that they reviewed, and that in another 37 percent, there had been no error.<sup>1</sup> Further, according to Physician Insurers Association of America data, 65 percent of the claims against physicians that closed in 2010 were dropped, withdrawn or dismissed.<sup>2</sup>

The current medical liability system causes physicians to practice defensive medicine – the cost of which is in the billions nationally – at a time when federal and state budgets are under intense pressure. The current medical liability system also leads to astronomically high liability premiums for physicians in high risk specialties. Such premiums threaten the practice viability of physicians in these specialties which in turn affects some of New Jersey's most vulnerable patients.

---

<sup>1</sup> Studdert, David M. et al. "Claims, Errors, and Compensation Payments in Medical Malpractice Litigation." *New England Journal of Medicine*. 2006;354:2024-2033.

<sup>2</sup> Guardado, JR. "Professional Liability Insurance Indemnity and Expense Payments, Claim Disposition, and Policy Limits, 2001-2011" Policy Research Perspectives No. 2012-3. (Chicago, IL: American Medical Association, Dec. 2012) [www.ama-assn.org/resources/doc/health-policy/x-ama/prp2012-03piaa.pdf](http://www.ama-assn.org/resources/doc/health-policy/x-ama/prp2012-03piaa.pdf).

The Honorable Sheila Y. Oliver  
March 5, 2013  
Page 2

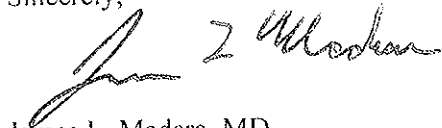
Additionally, a state's legal climate will affect the number of new physicians who decide to practice in a state. The 2010 Illinois New Physician Workforce Study<sup>3</sup> provides some insight into how new physicians are affected by the medical liability system. According to that survey, 49 percent of new Illinois physicians plan to relocate to a different state. Two-thirds of the new physicians planning to leave Illinois cited the medical liability environment as an important or very important consideration in that decision. It is likely that New Jersey physicians new to the profession have similar concerns.

Because of the problems with the current medical liability system, we enthusiastically support the solution proposed by A.B. 1831. The bill: (1) prohibits the addition of defendants using fictitious names at least 120 days prior to the date on which the action is set for trial; (2) clarifies the existing legal immunity for a health care professional who volunteers to respond in good faith to an emergency at a hospital or health care facility, removing the requirement that the service be provided without payment; (3) provides that an insurer cannot increase the premium of any medical liability insurance policy based on a claim of medical negligence or malpractice against an insured unless the claim results in a medical liability claim settlement, judgment or arbitration award against the insured; and (4) prohibits an insurer from increasing medical liability insurance premiums, if the alleged negligence occurred in certain charitable or emergency situations. While more is needed to truly reform the medical liability system in New Jersey, the reforms offered by A.B. 1831 are a strong step in the right direction.

In conclusion, we commend you for seeking a solution to an issue that is very problematic for New Jersey patients and physicians. You have an opportunity to solve this long-term problem, and we hope that you are successful in this effort.

The AMA thanks you for the opportunity to submit these comments. Based on all of the above, we strongly urge you to **support A.B. 1831**. If you have any questions, please contact Kristin Schleiter, JD, LLM, Senior Legislative Attorney, Advocacy Resource Center, at [kristin.schleiter@ama-assn.org](mailto:kristin.schleiter@ama-assn.org) or (312) 464-4783.

Sincerely,



James L. Madara, MD

cc: Medical Society of New Jersey

---

<sup>3</sup> 2010 Illinois New Physician Workforce Study, available at:  
[www.familymedicine.northwestern.edu/RESLI/FINAL%20REPORT%2011%2011%2010.pdf](http://www.familymedicine.northwestern.edu/RESLI/FINAL%20REPORT%2011%2011%2010.pdf)