

Pennsylvania Neurosurgical Society (PNS)
Pennsylvania Orthopaedic Society (POS)
Pennsylvania Physicians for the Protection of Specialty Care (3PSC)

June 22, 2007

Honorable Edward G. Rendell
Governor
Commonwealth of Pennsylvania
225 Main Capitol
Harrisburg, PA 17120

Dear Governor Rendell:

Pursuant to Act 13 of 2002, the Insurance Commissioner will be determining by July 1, 2007 whether adequate capacity exists in the private medical liability insurance market for carriers to assume \$750,000 of the mandated minimum \$1,000,000 coverage level. Currently, the private market provides \$500,000 coverage and the Mcare Fund provides the remaining \$500,000. On behalf of the high-risk specialty physicians we represent, we urge you to delay raising the primary coverage level from \$500,000 to \$750,000 for two very important reasons.

First, this determination is to be based on availability of coverage, not affordability. But by your Administration's own estimates as presented at the May 30th Mcare Phase Out Financing Plan stakeholders meeting, raising the primary limit as of January 1, 2008 will result in a premium increase of 48 percent for high-risk specialists, such as OB-Gyn's, neurosurgeons, and orthopaedic surgeons, if the MCARE Abatement Program is not renewed in December. Even with Mcare Abatement, Budget Secretary Michael Masch and Office of Healthcare Reform Director Rosemarie Greco informed us that high-risk specialists will see a 20 percent jump in rates. Premium increases of this magnitude will surely devastate the high-risk specialty physician community and will again destabilize the Commonwealth's healthcare delivery system. The gains we made under your leadership may be lost with these unacceptable increases in premiums.

Second, since Act 13's enactment and the other reforms of the past few years and through the efforts of your Administration, Pennsylvania has seen medical liability insurers return to our market. Many of these insurers, however, are self-capitalized entities, such as risk retention groups, that have adequate reserves for the current mandatory coverage level, but will likely be undercapitalized if physicians must seek \$750,000 from the private market. These self-capitalized entities filled the void created when commercial carriers left Pennsylvania and they insure many high-risk specialists. By our count, in fact, 18 of the 46 medical liability insurers listed by the Insurance Department are self-capitalized entities. We believe the Department's current data call will show that self-capitalized insurers represent at least 20 percent of the market. And we know that a vast number of our high-risk specialty colleagues are insured by these new market entrants. Even if affordability is not a mandated consideration for the Insurance Commission's determination, the potential loss of 20 percent of the market's medical liability carriers is significant in our view, particularly since the greatest adverse impact will be on high-risk specialists. The loss of these self-capitalized entities may again return the Commonwealth to the days when emergency room and

trauma centers were threatened with closure and expectant mothers had to travel great distances to receive care due to a lack of high-risk specialists.

Like most members of the medical community, we are committed to ultimately retiring the Mcare Fund. But we believe the vital reforms that have been enacted, such as Act 13, Mcare Abatement and Venue Reform, still need more time to mature before the benefits of these measures are truly realized in the medical community. The Administrative Office of Pennsylvania Courts recently reported that for the second year in a row, medical liability lawsuits are down and defense verdicts are up. This report is encouraging, but two years of data does not establish a trend worthy enough to take an action that may substantially destabilize the insurance market. And one need only to review the number of OB unit closures thus far in 2007, let alone the last ten years, to realize that Pennsylvania's medical liability crisis is not yet fully over. Raising the primary coverage level at this time could indeed contribute to another affordability and availability crisis similar to the one we experienced in 2002. Having lived through those dark times once, we would not want any action taken by your administration to return the Commonwealth to those market conditions.

We therefore respectfully request you to delay raising of the primary level until a more adequate market for medical liability insurance exists. We welcome the opportunity to discuss this further with you and your staff.

Sincerely,



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President, PNS



Charles D. Hummer, III, MD
President, POS



Barbara G. Frieman, MD
President, 3PSC

cc: Larry Clark
Rosemarie Greco
Michael Masch
Randy Rohrbaugh