



September 28, 2004

Senator Charles E. Grassley
United States Senate
135 Hart Senate Office Building
Washington, DC 20510

Dear Senator Grassley:

On behalf of the American Medical Group Association (AMGA), I would like to let you know of our strong support for The Iowa Clinic's medical liability proposal (Proposal). We believe the Proposal would help to stabilize medical malpractice insurance rates, encourage competition among medical malpractice carriers, minimize the need to create captive off-shore captive insurance companies, increase peer review, and help abate the growing medical liability crisis in this country.

AMGA is an association that represents medical groups, including some of the nation's largest, most prestigious integrated health care delivery systems. AMGA members' 65,000 physicians deliver health care to more than 50 million patients in 42 states, including 15 million capitated lives. As coordinated systems of care, AMGA members are in the vanguard of implementing sophisticated information technologies, providing evidence-based, coordinated care to patients with chronic conditions, and attaining improved clinical outcomes. AMGA members are involved with virtually every facet of the health care delivery system and employ many nationally recognized leaders in the healthcare field.

Introduction

As you know, physicians around the country are confronted with skyrocketing increases in medical liability premium costs that force them to leave high-risk specialty care practices, stop treating certain high-risk medical conditions, relocate to more liability "friendly" states, and, in many case prematurely retire from practicing medicine. As evidenced by recent headlines, there is growing recognition by all stakeholders that this liability crisis is leading to diminished access to healthcare. However, because of policy and political issues, to date, Congress has not been able to successfully address the medical liability crisis. In the absence of medical liability reform, we believe the Proposal offers meaningful assistance to healthcare providers dealing with this issue.

The Proposal

Under the Proposal, health care providers would place their pre-tax dollars within an entrusted account, or risk retention group, that can only be used for deductibles or malpractice claims expenses. This pre-tax concept is similar to medical IRA reimbursements. But, different from a traditional retirement account, the funds would remain within the account, and would not be portable.

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A federal government agency (e.g. the Department of Health and Human Services, the Department of Labor, or the Department of the Treasury) would oversee and regulate healthcare provider account balances and payments for medical malpractice costs. If funds were debited for any reason other than payments related to medical malpractice litigation, a tax or severe penalty would apply, similar to what is imposed on pre-retiree IRA withdrawals. For fiduciary purposes and to provide greater public protection, a letter of credit or other collateralized assets must be provided by participating providers. If the provider's risk retention group became liable for any claims and expenses above the deductible amount, and became insolvent, mandated underwriting considerations would occur.

Proposal Benefits

Because these funds belong to the provider, rather than an insurance company, providers can build up value through an escrowing base and help attract and/or keep quality physicians and allied health professionals. Moreover, as providers increasingly turn to risk retention groups, existing medical liability carriers will begin to compete, once again, in the marketplace by offering lower priced insurance products to health care providers. The Proposal would benefit patients because it would encourage greater communication within the provider regarding procedures and outcomes. Additionally, provider's healthcare dollars would remain in their community – rather than placed in an overseas insurance carrier.

Conclusion

We are already experiencing a medical liability crisis. This has resulted in an erosion of access to care, lack of quality doctors in rural areas, and U.S. tax dollars are being spent on off-shore captives. By taking the concept of medical IRA reimbursement, pre-tax dollars, and combining it with a defined usage (and penalty for improper withdrawal), the Proposal can initiate a stabilization of insurance rates and spur competition among existing medical liability carriers. Having the healthcare provider deeply involved in the medical liability process, using its own money, having control over its claims, and handling peer review, will, we believe, result in better patient care.

Thank you very much for taking the time to consider the Proposal. If you have any questions regarding the Proposal, please feel free to contact me at 703 838-0033 ex. 331 or Vice President of Public Policy and Political Affairs, Chet Speed at 703 838-0033 ex. 364.

Sincerely,



Donald W. Fisher, Ph.D.
President and CEO