



Michael D. Maves, MD, MBA, Executive Vice President, CEO

August 17, 2007

The Honorable Mike Kreidler
c/o Joe Bieniek
Chair
NAIC Statistical Information Task Force
2301 McGee Street, Suite 800
Kansas City, MO 64108-2662

Dear Commissioner Kreidler:

On behalf of the physician and medical student members of the American Medical Association (AMA), I would like to thank you for the opportunity to comment on the National Association of Insurance Commissioners (NAIC) Statistical Information Task Force's Closed Claim Reporting Model Law. As you are well aware, the recent medical liability crisis has caused a great strain on our country's health care system. We are pleased that your Task Force continues to focus on this issue, and we appreciate the opportunity to assist you in this endeavor.

In 2006, the AMA reviewed its policies on closed claim databases. Based on this review, we recommend the following:

- National medical specialty societies should develop closed claim databases where appropriate;
- The Agency for Healthcare Research and Quality (AHRQ) should design a useful dataset that will lead to better data collection and help researchers develop best practice guidelines; and
- Public disclosure of lawsuit settlements and judgments against individual physicians should occur only in connection with a negative state medical board licensing action.

On the last Task Force conference call addressing the model bill, there was discussion regarding the confidentiality provision in the draft legislation. We would like to take the opportunity to express our support for strong confidentiality language in the final version of the model bill.

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Closed claim databases are not accurate indicators of physician competence. Even though the Task Force may not intend for a closed claim database to be used as a measure of physician competence, past experience indicates that it will. We strongly caution against promoting closed claim database model legislation that identifies or facilitates the identification of physician-specific data. The data contained in a closed claim database can be misunderstood and misinterpreted easily – particularly by patients. Such confusion can drive a wedge into the patient-physician relationship. This is something that we believe the Task Force should work to avoid.

Research indicates that 37 percent of medical liability claims include no verifiable medical error. Despite the lack of medical error, some of these claims will be compensated, and the judgment or settlement will appear in the closed claim database. This can be misleading when reviewing a physician's record. Examples include when a jury decides against the weight of the evidence or when a case is settled with compensation to the plaintiff despite the absence of a medical error.

Even when a meritless claim is dropped or dismissed, the claim will still be included in the closed claim database. The case might have been resolved correctly, but since it is listed in the database, it may be construed as a negative mark on the physician's record. This can be confusing and misleading to patients trying to learn about their respective physician from a closed claim database.

For these reasons, we urge the Task Force to maintain strong confidentiality protections in the model bill.

Once again, our sincere thanks for allowing the AMA to comment on the model bill. Please contact Mike Glasstetter in the AMA Advocacy Resource Center at 312/464-5033 for further correspondence on this matter.

Sincerely,



Michael D. Maves, MD, MBA

cc: Richard Deem
Catherine Hanson
Michaela Sternstein