

March 23, 2017

The Honorable Paul Ryan
Speaker of the House
U.S. House of Representatives
1233 Longworth House Office Building
Washington, DC 20515

RE: Support H.R. 1215 The Protecting Access to Care Act of 2017 (PACA)

The American Society of Plastic Surgeons (ASPS) thanks you for bringing H.R.1215, the Protecting Access to Care Act of 2017 (PACA) to the House Floor for a vote, and **requests your support of this much needed medical liability reform measure**. ASPS is the world's largest association of plastic surgeons, with over 7,000 members representing 94 percent of Board-Certified Plastic Surgeons in the United States.

Currently, the medical liability system negatively impacts the physician-patient relationship, and is plagued by frivolous lawsuits. Sadly, over 75% of physicians will be involved in a malpractice claim during their career.¹ This overly litigious culture promotes defensive medicine, which in turn increases the cost of health care delivery. Patients feel the negative effects of defensive medicine by being subjected to unnecessary screenings, tests and hospital stays. ASPS aims to help reform our nation's medical liability system to: 1) increase the safety of patients; 2) make sure that injured patients are compensated in a timely and fair manner; 3) improve the provider patient relationship; and 4) ensure access to affordable medical liability insurance. As passed out of the Committee on the Judiciary, PACA will accomplish these aims.

If enacted, PACA would adopt reforms that have been enacted in the states and have yielded positive results. The legislation includes the following reforms:

- A three-year statute of limitations from the date of injury/one year following date of discovery. State law prevails where more stringent statute of limitations are in place;
- Caps non-economic damages at \$250,000. Damage limits of any amount in state law prevail;
- Limits attorneys' contingency fees to 40% percent of the first \$50,000; 33.3% of the next \$50,000; 25% of the next \$500,000; and 15% of any amount above \$600,000. Where states have passed laws further limiting contingency fees, the state law prevails;
- Allows juries to be informed of and consider collateral sources of compensation

¹ Jena, Anupam B., Seth Seabury, Darius Lakdawalla, and Amitabh Chandra. "Malpractice Risk According to Physician Specialty." The New England Journal of Medicine 2011;365:629-36 (2011). Print.

when determining awards;

- Allows for periodic payments of future damages over \$50,000; and
- Exempts providers from product liability suits involving FDA-approved products.

As outlined above, PACA will preserve states' rights. States that have enacted effective reforms will retain flexibility to adopt variations to meet their individual needs. The benefits of federal medical liability reform will be broad-sweeping and will include significant budgetary savings, as demonstrated by the Congressional Budget Office (CBO) estimate that it will reduce the deficit by nearly \$50 billion.

H.R. 1215 will improve the medical liability culture in the United States, and ASPS urges you to **support PACA when it is called for a vote**. Thank you for your consideration of these comments and please contact Patrick Hermes, ASPS's Senior Manager of Advocacy and Government Affairs, with any questions at Phermes@plasticsurgery.org or (847) 228-3331.

Sincerely,

A handwritten signature in black ink that reads "Debra Johnson MD". The signature is written in a cursive, flowing style.

Debra Johnson, MD
President, American Society of Plastic Surgeons

Cc: Members of the United States House of Representatives