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SUGGESTED AMENDMENT TO SENATE BILL 97

Proposed by:

Jan Gilbert, Nevadans for Quality Health Care

The following amendment is proposed to create the plan to "KEEP QUALITY MEDICAL CARE IN NEVADA," and is offered as the legislative alternative to the 2004 ballot question regarding medical malpractice.

1. Effective Date of Senate Bill 97, as Amended: Provide that Senate Bill 97, as amended by this proposal, will be presented to the voters at the 2004 General Election as the legislative alternative to the initiative petition proposed by "Keep our Doctors in Nevada." As an alternative, "Keep Quality Medical Care in Nevada" becomes effective if the voters adopt its provisions instead of the initiative petition.
2. Remove all existing provisions of Senate Bill 97 and replace those provisions with all of Assembly Bill 1 from the 2002 Special Session. The provisions of Assembly Bill 1 include the following:
 - *A \$50,000 cap on damages for certain emergency care.*
 - *Immunity for treatment in governmental or nonprofit facilities rendered gratuitously.*
 - *\$350,000 cap on noneconomic damages, with certain exceptions for gross negligence or exceptional circumstances.*
 - Suggested Addition - Increase the cap on noneconomic damages to \$500,000 for seniors and children.
 - *Mandatory pretrial settlement conferences with a judge and special training for trial judges involved in medical malpractice cases.*
 - Suggested Addition - At the settlement conference, a doctor who wants to settle a case may convey his opinion without fear of reprisal under his contract with an insurance company.
 - *Revised statute of limitations requiring cases to commence within 3 years after the date of the injury or 2 years after the discovery of the injury, whichever occurs first.*
 - *Stronger malpractice reporting requirements both to the State and to the physicians' licensing boards.*

ASSEMBLY JUDICIARY

DATE: 5/13/03 ROOM: 3138 EXHIBIT J

SUBMITTED BY: Jan Gilbert

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- *Mandatory reporting of medical errors ("sentinel events") and mandatory patient safety plans and committees in medical facilities.*
 - *Whistle-blower protections for employees of medical facilities and physicians who report medical errors.*
3. **Insurance Premium Rollbacks** – Require a reduction in premiums for medical malpractice policies based upon the savings achieved through the enactment of the reforms set forth in Senate Bill 97, as amended under this proposal. Premiums must be reduced by an amount determined by the Insurance Commissioner.
 4. **Reinstate the Medical Malpractice Screening Panel** – Require a review of each case of medical malpractice by a panel of physicians and attorneys before the case may be filed in court. The panel should be modeled after the screening panel administered through the Division of Insurance, which was repealed in the 2002 Special Session. The following improvements are suggested:
 - a. ***Composition of the panel*** – Reduce the numbers on the panels to two physicians (instead of three) and two attorneys (instead of three) who will serve on the panel.
 - b. ***Review of the record and expert testimony*** – Limits the panel's review to the medical record. If there is any difficulty in reading a record, then the plaintiff may request that the record be deciphered. Expert testimony should only be allowed with regard to the content of the medical records. In addition:
 - No pleadings by the attorneys will be allowed.
 - No affidavits from any one other than an expert will be allowed. For the purposes of the screening panel, a defendant is not considered an expert.
 5. **Mandatory Investigation for Multiple Cases of Medical Malpractice** – Require a physician to report to the licensing board any action for malpractice within 45 days after the physician receives service of a summons and complaint for the action. The State Board of Medical Examiners or the State Board of Osteopathic Medicine (as appropriate) must investigate any physician with three or more actions filed in court against the physician for malpractice. If the Board finds the physician is unfit, the Board must revoke the physician's license.
 6. **Enact an "Any Willing Provider" Law** – Prohibit health insurers from excluding any provider within the coverage boundaries when the provider is willing, qualified, and able to meet the plan's conditions for participation. The providers should include hospitals, physicians, pharmacists, optometrists, and nurses.