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**Testimony Regarding SB97
May 13, 2003**

Good morning Chairman Anderson and members of the Assembly Judiciary Committee. For the record, my name is Mark Nichols, executive director of the National Association of Social Workers - Nevada Chapter. I am here to speak in opposition to SB 97 and in support of the amendments offered by Jan Gilbert.

The analysis of the medical malpractice insurance issue has been a challenge for NASW. Initially portrayed as doctors against the trial lawyers, this placed us in a difficult position. As a member of the Nevada Coalition of Licensed Health Care Profession we had a good relationship with the Medical Society and dental association. NASW is also a member of PLAN where the Trial Lawyers have been strong allies on several social justice concerns. For this reason we remained neutral during last summer's special session.

In preparation for this session we took a more thorough analysis of the issue. We joined with other groups that represent the perspective of the health care consumer and saw a very different set of problems. It was not just lawyers chasing doctors out of Las Vegas. There were insurance companies, there were just a few doctors making many of the medical errors, and there were the legal rights of patients. What we saw was a clear case of social injustice.

It is wrong when the people who can least afford to shoulder the burden of public policy are the very people who suffer the most. The decision to place caps on non-economic damages was at the cost of the legal rights of health care consumers. It is wrong when the children, the elderly and working poor are the groups targeted to pay the price for reform. Yet that is exactly what is taking place on the medical malpractice insurance issue. The health care consumers, especially the most economically vulnerable, have had their legal rights eroded in favor of insurance companies and doctors. And now, before the ink has dried on the summer's reforms, SB 97 seeks to further erode our legal rights.

The caps placed on non-economic damages, pain and suffering, are particularly unfair to children, the elderly and the working poor. A high-income victim of a medical error is more likely to realize a full award from the economic damages. The legal rights of the child, confined to a wheelchair because of medical error, are being eroded, and that is wrong. Why is the life of a child worth less than that of an executive? The amendment offered by Ms. Gilbert would raise the cap on economic damages for children and seniors to

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SUBMITTED BY: Mark Nichols

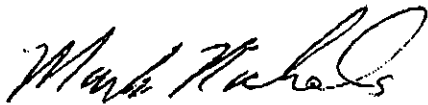
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\$500,000. This provision, which reduces the economic injustice of tort reform, is fair, reasonable and appropriate public policy.

The amendment also provides for the investigation of any physician with three or more actions filed against them. If these doctors are allowed to continue to practice in Nevada the insurance settlements they incur will serve to increase every doctor's medical malpractice insurance premium. Parents of a teenage driver understand this concept. When faced with their second or third accident or moving violation these parents have a difficult decision - pay outrageous auto insurance premiums or take away the keys.

Finally, NASW strongly supports the provision of the amendment that gives the voters of Nevada a second choice on the November 2004 ballot. The voters deserve the opportunity to choose between a ballot initiative that only asks us to give up our legal rights or approving a more complete reform of the medical malpractice insurance crisis. With this amendment the people will have an alternative that addresses tort reform, as well as reforms of the insurance industry and the medical community.

Thank you Chairman Anderson for this opportunity to testify on this important social justice issue, the effort to solve the medical malpractice insurance crisis. I urge you and the committee to amend SB 97 to more fully address the challenge of keeping doctors in Nevada and protecting the health care consumer's legal rights.



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