

## DISCLAIMER

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### Additional Background Info

The recent rise in medical malpractice insurance rates has created a health care access crisis in Nevada, particularly in Clark County. There are many barriers to obtaining affordable, quality health care in Nevada, but recently, the focus has been on the medical malpractice insurance issue because sudden increases in premiums have had a severe impact on physicians and their practices.

The Legislative Subcommittee to Study Medical Malpractice was created in April 2002 to address the problems of medical malpractice and report its findings to the 2003 Legislature. The work of this committee was cut short when the Special Session was convened on July 29, 2002.

The current crisis began in December 2001 when the St. Paul Company, the medical malpractice insurer which covered 60 percent of Nevada physicians, decided to pull out of the market. However, the root of the crisis can be traced back to the mid 1990s, when St. Paul Company purchased the Nevada Medical Liability Insurance Company. This Nevada Medical Liability Insurance Company was a doctor-owned insurer originally formed by the State as a joint underwriting association during an earlier crisis involving medical malpractice in the 1970s.

In early summer of 2002, doctors and health officials described the escalating cost of malpractice insurance as a medical crisis. Governor Kenny Guinn called a Special Session of the Legislature on July 29, 2002 to address medical malpractice issues. Lawmakers passed legislation adopting the following key provisions:

- Patients suing their doctor for malpractice can collect no more than \$350,000 for pain and suffering (non-economic damages) with two exceptions. The exceptions are gross negligence, and cases in which a judge determines that a higher award is justified because of "exceptional circumstances."
- A trauma patient, such as a gunshot victim, cannot sue for more than \$50,000 unless gross negligence is involved.
- A medical practitioner who is partly responsible for a case of malpractice will now pay no more than his share of fault if a jury awards non-economic damages.
- The total award a patient is likely to receive would be the limits of the doctor's malpractice insurance policy, typically \$1 million per occurrence.
- Hospitals and other medical facilities are required to report major medical errors, called "sentinel events."
- Judges will be required to consider whether an attorney has filed a frivolous medical malpractice case. If so, the court is required to assess the attorney all court costs and attorney fees.
- The Good Samaritan law was expanded to give full liability protection to a doctor or dentist who renders care or assistance without compensation.
- Malpractice screening panels were eliminated.

This legislation became effective on October 1, 2002 with provisions for reporting medical errors becoming effective July 1, 2003.

Soon after the tort reform provisions became effective a small group of doctors sought elimination of the exceptions and further reforms through the petition process. This petition has been presented to the 2003 Legislature for action. According to Nevada law, if the legislature does not pass the petition into law it will be placed on the 2004 general election ballot for consideration by the voters.