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Good morning Chairman Amodei and members of the Senate 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 on behalf of the NASW-Nevada and the health care consumer in opposition to IP1 and SB97, the doctor's effort to address Nevada's medical malpractice insurance crisis.

I want to first acknowledge that understanding and solving the medical malpractice insurance issue is very complex. And, it is just one aspect of our total health care system that is in need of reform. Consumers seek access to affordable, quality health care. Medical malpractice insurance has become one of the barriers to that end.

The problems with the doctor's proposal are also very complex, just as the issue is itself. In my testimony I intend to address just one of our concerns. The National Association of Social Workers - Nevada Chapter believes this is an issue of economic justice.

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. 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, that is wrong.

The decision of Nevada's legislative special session to place caps on non-economic damages was at the cost of the legal rights of health care consumers. Patients had their legal right to seek a full redress eroded in an effort to control the cost of medical malpractice insurance. Victims of medical errors and their families did not give away their legal rights in August, they were taken away from us. And now, before the ink has dried on the summer's reforms, a small group of doctors is asking this legislature 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. The doctors and insurance companies now want to remove the two exceptions to these caps, gross negligence and exceptional circumstances, for the caps. These exceptions were enacted as safeguards to protect the public in the most extreme cases.

A high-income victim of a medical error is more likely to realize a full award from the economic damages. They are significantly more likely to incur an adequate loss of income, which is based on the current earning power, to recover the full amount of damages available from the

doctor's insurance policy. The rich are less likely to feel the impact of the medical malpractice insurance reforms.

On the other hand, the legal rights of the child, confined to a wheelchair because of medical error, are being eroded, and that is wrong. These children do not have the current earning power to generate a significant economic damage award. The "extreme circumstance" exception was designed protect these victims. Judges could override the caps and award a fair judgment. Now the doctors and insurance companies are asking you to remove this exception. Why is the life of a child worth less than that of an executive?

An elderly person also lacks the earning capacity to generate a sufficient economic damage. Why is the life of a senior worth less than a professional athlete? The same hold true for the maid, retail clerk or service worker. Why are their lives worth less than that of a wealthy doctor or lawyer?

March is Professional Social Work Month. The theme of this year's celebration is "The Power of Social Work: Preserving Rights. Strengthening Voices." That is exactly why I am involved in this complex issue - fighting to preserve the rights of health care consumers by helping to provide our voice in this debate.

In closing, I urge the members of the Senate Judiciary committee to let the current reforms have time to work. I urge you not to further erode the legal rights of health care consumers. I urge you to instead encourage the insurance companies to come to the table with reforms that are fair and just.

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