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*Promoting Fairness and Equity in Wisconsin's Civil Justice System*

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To: Members, Wisconsin Senate

From: Andrew Cook, on behalf of the WCJC

Date: January 19, 2010

**Re: OPPOSITION to Senate Bill 203 – Expanding Medical Malpractice**

The Senate has scheduled a floor vote for SB 203 on Tuesday, January 19. Senate Bill 203 expands medical liability by allowing recovery for “loss of society and companionship” damages for adult children and their parents.

Wisconsin Civil Justice Council **OPPOSES** Senate Bill 203 for the following reasons:

- SB 203 expands medical liability and therefore drives up health care costs at a time when the federal government is seeking ways to *reduce* costs.
- The Congressional Budget Office recently issued a [memorandum](#) that analyzed certain reforms as proof that medical malpractice lawsuits drive up health care costs. The CBO study found that enactment of certain malpractice law reforms could reduce the federal deficit by \$54 billion over the next 10 years.
- In another recently released [memorandum](#) (Dec. 29, 2009) reinforcing its earlier findings, the CBO actually revised its research. The new CBO finding almost doubles its estimate—from 6 percent to 10 percent—of the reduction in costs of medical liability insurance that would occur through a number of tort reforms. At the same time, the report found there is no clear evidence that tort reform would diminish health care.
- Recent studies have found that 93% of physicians report practicing “defensive medicine” and a significant amount of tests are ordered with the threat of a potential lawsuit. This leads to roughly \$124 billion in added health care costs nationally.
- If SB 203 is passed, businesses will be forced to pay higher health care premiums for their employees, which will make Wisconsin less competitive.
- SB 203 overturns two Wisconsin Supreme Court decisions that have expressly addressed the issue of whether loss of society and companionship damages should be expanded for adult children and their parents. [*Estate of Wells v. Mt. Sinai Med. Ctr.*, 183 Wis. 2d 667, 515 N.W.2d 705 (1994) (Decided 6-1); *Czapinski v. St. Francis Hospital, Inc.* 236 Wis. 2d 316, 613 N.W.2d 120 (2000) (Decided 6-0)]
- In almost any medical malpractice case involving the death of a patient, the decedent’s estate has the right to pursue pre-death pain and suffering. Therefore, contrary to claims made by the plaintiffs’ bar, families do have the right to file a lawsuit to seek justice.

**Please help keep health care costs lower in Wisconsin. Please vote NO on SB 203.**