



WISCONSIN CIVIL JUSTICE COUNCIL, INC.

Promoting Fairness and Equity in Wisconsin's Civil Justice System

Medical Liability Legislation Will Increase Health Care Costs

Bill Would Enrich Trial Lawyers at the Expense of Businesses and Employees

Contact information:

January 19, 2010

Bill G. Smith – (608) 255-6083/Ed Lump – (608) 270-9950

Madison – The Wisconsin Senate will vote on Tuesday on legislation that will drive up health care costs by expanding medical liability.

Senate Bill 203 expands “loss of society and companionship” damages for adult children and their parents in medical malpractice cases. Currently, only parents of minor children can sue for loss of society and companionship in such cases.

“While Washington is discussing ways to reduce health care costs, Wisconsin is unfortunately going in the opposite direction by enacting legislation that will lead to greater liability and higher health insurance premiums,” said Bill G. Smith, President of the Wisconsin Civil Justice Council.

“Wisconsin businesses are struggling to add jobs during this economic downturn,” added Smith. “The last thing small businesses can afford are more health care costs that will make Wisconsin less competitive.”

Higher health care costs impact wages and therefore affects jobs.

According to recent studies, 93 percent of physicians report practicing “defensive medicine.” A significant amount of tests are often ordered with the threat of a potential lawsuit. This in turn leads to roughly \$124 billion in unnecessary health care costs nationally. Higher health care costs have a detrimental effect, such as reducing employment.

Smith points to a recent Congressional Budget Office memorandum that analyzed certain reforms as proof that medical malpractice lawsuits drive up health care costs. The CBO study issued late last year found that enactment of certain malpractice law reforms could reduce the federal deficit by \$54 billion over the next 10 years.

“Instead of looking for new ways for trial attorneys to sue doctors, we instead should focus on ways to reduce health care costs,” said Ed Lump, President and CEO of the Wisconsin Restaurant Association. “We ask the Senate to reject this legislation.”

Senate Bill 203 reverses two Wisconsin Supreme Court decisions that directly addressed the issue of whether loss of society and companionship damages should be expanded to adult children and their parents. Both cases, which were decided 6-0 and 6-1, summarily rejected expanding those damages.

During testimony on SB 203, an attorney that specializes in medical malpractice defense informed the Senate Committee that in almost all medical malpractice cases involving the death of a patient, the decedent’s estate has a right to pursue pre-death pain and suffering. Therefore, contrary to claims made by the plaintiffs’ bar, families do currently have the right to file lawsuits to seek damages.