

MEDICAL LIABILITY REFORM

Neurosurgeons to Preserve Health Care Access. It has been requested that the AANS and the CNS take the necessary steps to legally dissolve their 501(c)(4) tax-exempt advocacy organization, Neurosurgeons to Preserve Health Care Access (NPHCA) for the following reasons:

- There has been significant confusion among neurosurgeons about the differences between NPHCA, ANSPAC and the new NeurosurgeryPAC (formerly named AANSPAC). If we need to raise money from individual neurosurgeons for our medical liability reform efforts, we can do so through NeurosurgeryPAC and contribute such funds directly to DMLR.
- The AANS and CNS themselves can make organizational contributions directly to DMLR (subject to certain IRS lobbying restrictions for the CNS).
- We planned to use NPHCA principally our medical liability reform advocacy efforts, and since the AANS and CNS can engage in these activities directly, NPHCA is unnecessary.

The dissolution of NPHCA does not mean the organized neurosurgery's involvement in DMLR and our fight for medical liability reform will cease, however, and the AANS and CNS can become members of DMLR in their own names. NPHCA has approximately \$200,000 remaining in its bank account, so until the funds are exhausted, NPHCA will maintain its existence, but we won't actively promote the organization.

ACTION TAKEN: The AANS and CNS will contribute \$50,000 to DMLR to pay the 2007 dues. Notify DMLR that while the dues for organized neurosurgery will be paid by Neurosurgeons to Preserve Health Care Access (NPHCA), DMLR should list as neurosurgeons' member organizations the AANS and CNS instead of NPHCA.

Doctors for Medical Liability Reform. The Doctors for Medical Liability Reform (DMLR) steering committee recently held a phone conference call to discuss its plans for 2007. Drs. Troy Tippet and Gary Bloomgarden and Katie Orrico participated on the call. Despite the recent set-backs with the change in Congress, the Steering Committee voted to continue DMLR's efforts at educating the public and building its grassroots network, with is now in excess of 500,000.

In 2007, DMLR's key objectives include:

- To advance medical liability reform as a key issue in the public debate, through press briefings, policy conferences, candidate information materials, etc.
- To maintain and expand DMLR's presence as a top resource on medical liability reform to key decision makers and opinion leaders, physicians, patients, concerned citizens and the media, through maintenance and expansion of the website, publication of press releases and op-eds, and periodic radio-tours.
- To preserve and continue to build DMLR's grassroots network by identifying, recruiting, educating, motivating and mobilizing physicians, patients, and concerned citizens to support medical liability reform, through ongoing email messages, newsletters, etc.

One critical aspect of keeping DMLR alive and well, is so there is a voice to respond to the reform "opposition". We anticipate that groups like Public Citizen and others will continue to release reports and information that will require a clarifying response.

DMLR anticipates that its 2007 program will require a budget of \$600,000 (at a minimum). Dues for voting members at the officer level are \$50,000. DMLR will reach out to additional organizations, including the AMA, to build its membership and increase the number of physicians supporting its efforts.

Legislation.

- **Medical Care Access Protection Act.** On January 10, 2007, Senator John Ensign (R-NV) introduced a medical liability reform bill, S. 243, the Medical Care Access Protection Act (MCAP). This legislation is modeled after the Texas reform legislation and includes the following provisions: (1) a \$250,000 cap on non-economic damages against physicians; (2) a 3-year statute of limitations for filing a lawsuit; (3) limits on attorneys' fees to 40% of the first \$50,000, 33.3% of the next \$50,000, 25% of the next \$500,000 and 15% of any amount exceeding \$600,000; (4) standards for expert witnesses; (5) elimination of joint and several liability; and (6) fine for attorneys who file frivolous lawsuits. The bill currently has 15 co-sponsors. On the same day, Senator Judd Gregg (R-NH) S. 244, the Healthy Mothers and Healthy Babies Access to Care Act, applies the same reform provisions as S. 243 for obstetrics and gynecology services only. This legislation has 12 co-sponsors.

- **Health Courts.** With the U.S. House of Representatives and Senate now in control of the Democrats, comprehensive tort reform that includes caps on non-economic damages at the federal level is most likely dead. The issue itself, however, is not dead and there is still some interest (both democrats and republicans) for looking at alternative legislation that would authorize demonstration projects on different systems. One idea that continues to be put forward is the creation of specialized health courts. Common Good has been an aggressive proponent of this system. In recognition of this movement, the AMA Board of Trustees recently adopted "Health Court Principles". A key differences between the AMA principles and the Common Good approach is that the AMA continues to call for negligence as the standard by which "malpractice" is measured and the Common Good applies essentially a no-fault approach.

ACTION TAKEN: The Washington Committee has recommended that the AANS and CNS consider endorsing the AMA Health Court Principles. If and when this happens, a letter will be sent to the AMA informing them of this action, followed by a letter to the Congress encouraging passage of medical liability reform legislation, including demonstration projects evaluating concepts like Health Courts.