

Wisconsin Hospital Association

March 2, 2006

TO: Members of the State Assembly
FROM: Eric Borgerding, Senior Vice President
RE: **Support for AB 1073**



The Wisconsin Hospital Association urges you to support AB 1073 on the Assembly floor today. This legislation is desperately needed and is **WHA's highest priority** for the 2005-06 legislative session.

The Legislation

AB 1073 is the product of a tremendous effort by legislators from both parties, the medical community and constitutional scholars. Notable aspects of AB 1073 include:

- Is **67.7% higher** than Wisconsin's previous cap, which was overturned by the WI Supreme Court because it was too low.
- Includes **17 years worth of inflationary increases** over the previous cap. It would have taken until 2023 to reach \$750,000 with the inflationary indexing under the previous cap.
- Requires **a review of the cap amount every two years** by the Board of Governors to the Injured Patients and Families Compensation (ICFCF). **The Board must report its findings to the Legislature.**
- Has an extensive, evidence-based legislative record that provides **a solid rational basis for a cap**, as required by the Court.
- Was crafted with the assistance of former **Supreme Court Justice William Bablitch.**
- Has been extensively **reviewed by Professor Gordon Baldwin**, a nationally renowned constitutional scholar with the UW Law School (analysis available at www.wha.org)
- Has **61 bipartisan co-sponsors** – THANK YOU!

OVER

The Need

On July 14, 2005, the WI Supreme Court overturned our cap on non-economic damages. That same day, WHA and the Wisconsin Medical Society warned of dire consequences should a cap not be restored soon. While our concerns then, and still today, were dismissed as ‘hysteria’ and ‘fear mongering’ by those opposed to a cap, the facts don’t lie. In just seven months, our warnings are becoming realities.

- **Million Dollar Lawsuits Up 22.4%:** The (IPFCF), which is named in malpractice suits seeking more than \$1 million in damages, faced 71 lawsuits in the final six months of 2005, compared to 58 lawsuits in the final six months of 2004 – a 22.4% increase in million dollar lawsuits in just the first six months since the cap was eliminated.
- **Jury Verdicts Increasing:** In just seven months, four jury awards were reached or reinstated that exceeded the previous damage cap, including the \$8.4 million verdict recently handed down in Dane County. By comparison, during the previous 120 months in which we had the cap, there were just nine such awards.
- **Liability Insurance Premiums Skyrocketing:** In the December 2005, the IPFCF approved a premium increase of 25%, to take effect in 2006. This increase is due solely to the loss of the cap.
- **A More Aggressive and Litigious Era in Wisconsin:** The State Bar and Milwaukee Bar Associations have offered seminars on how to make the most out of loss of the cap. One seminar titled “Life After Caps: How to Get the Most Money for Your Client”, even featured a special section with *“Tools for Trial to Get the Million Dollar Award.”*
- **Physicians Saying “No” to Wisconsin:** Hospital physician recruiters across the state continue to report that physicians are canceling appointments or simply refusing to consider practicing in Wisconsin due to loss of the cap. Our single greatest concern is that fewer experienced doctors will come to Wisconsin, new doctors will choose to avoid Wisconsin, or worse yet, doctors will leave as they have done in many other states without caps. *Wisconsin has never needed more physicians than it does today.* According to the WI Office of Rural Health, physician vacancies across the state, and especially in rural areas, are at an all time high.

AB 1073 is a bipartisan proposal that will reinstate a fair and, we believe, constitutional cap. On behalf of Wisconsin’s hospitals, **I urge you to support this desperately needed legislation.**

If you have any questions today, I can be reached any time on my cell phone: 608-335-3949.