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October 29, 2007

Dear Senator:

In the coming weeks, you will be asked to renew the Mcare Abatement Program. Over the last five years, it has provided more than \$900 million in medical liability cost relief to Pennsylvania's physicians and preserved patient access to specialty medical care. For high-risk specialists – ob-gyn, neurosurgeons, orthopaedic surgeons, and general surgeons – the 100% abatement of Mcare surcharges has been the most significant reform measure enactment in the past 10 years. The immediate relief provided by the Mcare Abatement Program did more to stabilize the high-risk specialty community than any of the long-term reforms contained in Act 13 of 2002. We respectfully request you renew this vital program.

As you know, however, the Act 13, venue and other reform measures are maturing and having a positive effect on Pennsylvania's medical liability environment. These reforms have resulted in lowering the number of medical liability lawsuit filings and, while a trend has not been established, there is evidence that award and settlement amounts are decreasing. As a result, Mcare abatement payouts are declining and the Abatement Program currently has a \$440 million surplus. This is good news, but it is not cause to declare the crisis over. A second phase of the continuing crisis is upon us.

Across the Commonwealth, practices report that recruitment of the best and brightest young orthopaedic surgeons and other high-risk specialists continues to be difficult at best. This is no surprise since Pennsylvania retains only 8% of the medical residents trained at our world class universities, according to the Pennsylvania Medical Society's 2005 State of Medicine Report. Add to this the fact that according to the state Department of Health's 2006 physician supply report, more than 25% of all specialty surgeons plan on moving out of state or retiring by 2010. The combination of surgeons moving and retiring at such a high rate while we are losing our ability to recruit physicians here is not good news for Pennsylvania's aging population.

Residents report that among the reasons they choose to practice in other states is Pennsylvania's healthcare environment – high liability costs, low reimbursements, and the Mcare Fund's nearly \$2 billion unfunded liability. Retiring Mcare's unfunded liability has long been a goal of the General Assembly, the Administration and the medical community. The Mcare Commission's recommendations were reported a year ago and a few retirement models have been created to implement those recommendations. In addition, the Pennsylvania Orthopaedic Society (POS) is developing our own model that would not require bond financing. Progress is being made to resolve this resident recruitment barrier.

A critical element of the Mcare Commission Report and every retirement model designed to implement its recommendations is a premium stabilization fund. The fund would be used to hold the line on premium increases as physicians seek a greater share of their liability insurance from the private market during Mcare's phase out period. The revenue sources would be the Mcare Abatement Program's current funding mechanism – 25 cents per pack cigarette excise tax and the Auto Cat Fund surcharges. In addition, the Abatement Program's current surplus would be dedicated to premium stabilization since those funds were raised for a like purpose. This is a reasoned approach to maintain stability in the physician community, remove a major barrier to resident recruitment, and move the Commonwealth out of the medical liability insurance business.

Whether a Mcare retirement plan is adopted in this year's remaining session days is yet to be seen. There simply may not be sufficient time to carefully consider a model that satisfies the needs of all stakeholders. But renewal of the Mcare Abatement Program is absolutely necessary by the end of December. As you consider Mcare abatement renewal measures, POS strongly recommends that you do not enact legislation that diverts any Abatement Program revenue or surplus to any purpose other than abatement and premium stabilization. We believe that when a retirement model is adopted, all current Mcare revenue and surplus will be necessary to implement a reasoned plan.

Thank you for consideration of our position.

Sincerely,

A handwritten signature in black ink that reads "Chip Hummer". The signature is written in a cursive, slightly slanted style.

Charles D. Hummer III, MD
President

POS is a professional medical specialty organization representing more than 900 orthopaedic surgeons across Pennsylvania in advocating for excellence in the practice of orthopaedic medicine.