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CHAIRMAN JIM SAXTON

PRESS RELEASE

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STATEMENT OF CHAIRMAN JIM SAXTON *Medical Liability Reform*

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WASHINGTON, D.C. – It is a pleasure to welcome Dr. Mark McClellan before the Committee this morning to address medical liability reform.

Dr. McClellan brings a wealth of experience and knowledge to bear on this subject. Currently, Dr. McClellan serves as the Administrator of the Centers for Medicare & Medicaid Services, overseeing approximately one-third of health care spending in the U.S. In addition to being a board-certified physician in Internal Medicine, Dr. McClellan is also a Ph.D. economist. He has previously served as the Commissioner of the Food and Drug Administration and as a member of President Bush's Council of Economic Advisers.

There is little doubt that our nation's medical liability laws need reform. Over the past few years, premiums have skyrocketed. In just the last five years, total medical liability costs jumped 47%, to a record high of nearly \$27 billion. One of the central cost drivers is rising claims costs. According to the legal research firm Jury Verdict Research, the median trial award for medical liability claims stands at an incredible \$1.2 million, and a recent Department of Justice study reported that nearly 2/3rds of medical liability trial awards exceed \$250,000.

This rise in costs has reached the point where the quality and availability of health care suffer. Faced with premiums increasing 20%, 30%, or more per year, many doctors are cutting back on the scope and availability of their services. Nowhere is this trend more apparent than in obstetrics, where numerous OB/GYNs have decided it is just easier to drop the OB part altogether. Some doctors have elected early retirement or have relocated away from high litigation areas. Emergency rooms and trauma centers have also been hurt by the current crisis. The threat of lawsuits has made the practice of defensive medicine commonplace, and as a result, patients are subjected to more tests and procedures than may be warranted by clinical factors alone.

Despite the rise in costs, the system is not better at compensating the negligently injured. The typical time that elapses between the date of injury and a jury verdict is close to 5 years. Moreover, it is widely recognized that only a small fraction of negligently-injured patients even file a claim. At the same time, a large majority – around 80% – of medical liability claims do not even involve negligent injuries. One study even found that more than half of all medical liability claims do not involve an injury at all.

The shortcomings in the current tort system are such that even *The Washington Post* has noted that “the staggering costs and irrationality of America's civil justice system are unacceptable. The tort system is something of a casino, offering windfall judgments to a small number of claimants and nothing to others – with the merits of cases seeming almost irrelevant to their valuation.”

Although each state faces its own set of challenges and problems, the medical liability crisis has nonetheless reached national proportions. Thus, we are grateful to have Dr. McClellan here to provide some insight into the problem and direction for reform.

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