



Illinois State Medical Society

ISMIE
Mutual Insurance Company
The Physician-First Service Insurer

December 18, 2013

The Honorable Richard J. Durbin
711 Hart Senate Building
Washington, DC 20510

Dear Senator Durbin:

On behalf of the 11,000 member physicians of the Illinois State Medical Society and the 12,000 physician policyholders of the ISMIE Mutual Insurance Company, we are writing to you in regard to the Standard of Care Protection Act (S. 1769). Specifically, as the Senate considers a proposal to repeal Medicare's Sustainable Growth Rate, we ask you to support a provision clarifying that federal healthcare guidelines may not be misused in legal matters stemming from questions about medical liability.

As you may be aware, the SGR fix passed by the House Ways & Means Committee and the House Energy & Commerce Committee (H.R. 2810 – the Medicare Patient Access and Quality Improvement Act) already includes such a provision in Section 5(c) of that bill. That section simply states that federal healthcare guidelines or regulations, which were not specifically designed to establish a standard of care, should not be interpreted as creating a standard of care. This provision neither changes current medical liability laws nor alters, in any fashion, the way courts currently determine whether an act of medical negligence occurred. It merely ensures that provisions of federal healthcare law are used only as intended – neither to generate new lawsuits nor to protect providers from claims of negligence.

This language received strong bipartisan support in the House and has been endorsed by health care professionals, medical liability insurers and trial attorneys. Whether it is considered as part of SGR reform or as a standalone measure, passage of this bill will help prevent unneeded, and unintended, disruption to our medical liability system.

We urge you to support this important measure, and thank you for your consideration.

Sincerely,

Steven M. Malkin, M.D.
Chair, Board of Trustees
Illinois State Medical Society

Harold L. Jensen, M.D.
Chairman, Board of Directors
ISMIE Mutual Insurance Company

cc: Eldon A. Trame, M.D.
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