

BOB FILNER
50TH DISTRICT, CALIFORNIA

504 CANNON BUILDING
WASHINGTON, DC 20515
TEL: (202) 225-8045
FAX: (202) 225-9073

333 F STREET, SUITE A
CHULA VISTA, CALIFORNIA 91910
TEL: (619) 422-5963
FAX: (619) 422-7290



PUBLIC WORKS AND
TRANSPORTATION COMMITTEE

VETERANS' AFFAIRS
COMMITTEE

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES

May 25, 1995

The Honorable Bill Clinton
President of the United States
The White House
166 Pennsylvania Ave NW
Washington, D.C. 20500-0001

Dear Mr. President:

We are writing to ask you to oppose arbitrarily capping pain and suffering compensation for victims of medical malpractice at \$250,000 no matter how serious the patient's injuries or egregious the malpractice. While an eleventh-hour amendment imposing a federal cap passed the House, injured California patients, who have been denied compensation and representation due to a \$250,000 pain and suffering cap in our state, were not permitted to testify about their extraordinarily disturbing experiences with such a limit. As their representatives, we are writing to shed light on the false assertion that California's cap is a positive model for the nation.

Virtually all studies, including studies by the Department of Health and Human Services, the Congressional Budget Office, and the Office of Technology Assessment, conclude that malpractice costs account for less than 1% of the health care budget. Restricting the rights of victims of medical negligence does not necessarily reduce overall health care costs. In fact, despite restrictions imposed by California's medical malpractice law, California's medical consumer price index has grown faster than national health care costs since the imposition of the cap on pain and suffering, and the rate of growth in California is accelerating compared to the United States.

Most disturbingly, California's cap has unfairly burdened innocent patients like Long Beach resident Harry Jordan. A negligent surgeon removed Jordan's healthy kidney rather than his cancerous kidney. Forced to live on 10% kidney function, Jordan received a \$5.2 million jury verdict. But due to California's cap, a judge reduced Jordan's total compensation to only \$256,000. The jury, who under the law could not be told of the cap, awarded Jordan only \$6,000 in "economic" compensation--under the assumption, which proved incorrect, that Jordan would later return to work. His medical bills have totaled more than \$500,000, and his court costs, not including attorney fees, have amounted to more than \$200,000. Like many Californians, Jordan was as much a victim of California's cap on pain and suffering as he was a victim of medical negligence.

The distressing predicaments of malpractice victims in California who have been denied both legal representation and adequate compensation should not be repeated across the nation. For instance, an Oakland woman mutilated during a mastectomy by an intoxicated surgeon could not find an attorney to take her case because of the \$250,000 cap on her recovery, despite the fact that the medical board had sanctioned the surgeon for drug abuse. She was forced to shoulder the cost of her lost wages and medical bills. In San Diego, a five year old boy who is blind and brain damaged due to malpractice has been prevented from receiving \$7 million awarded to him for his lifetime of pain and suffering--and will only receive \$250,000 to cover all unanticipated expenses.

California's arbitrary cap on human pain and suffering compensation should not be a model for national legislation. We ask you to oppose federal imposition of such a law.

Sincerely,

Bb Filner

Howard L. Berner

Maxine Waters

Lucille Roybal-Allard

Waterbury III

Clavin Baccara

JL - Wifo

Long & Wilson

Tony Beileisen

Matthew E. Martinez

Donald K. Bell

Gene Stark