

----- Original Message -----

From: Steven P. Shikiar, MD, FACS

To: Undisclosed-Recipient;

Sent: Wednesday, January 22, 2003 12:07 AM

Subject: Medical Liability Insurance Crisis - They Say There's Going To Be a Revolution!!!

Tonites message going to 1538 physicians, charged and ready to spit lightning. Send me more e-mails.

Please visit [www.HCMSDoctors.org](http://www.HCMSDoctors.org)

If you haven't noticed, I have tried to reorganize the web site. Tools for you to use such as signs, legislator lists, petitions, etc are in red at the bottom of the page. Background, general information and other intellectual material is in green. News is still in blue. I will break this down further if needed.

Hackensack University Medical Center is on board. Welcome!!

In a month we will probably be involved in a war with Iraq. This is our chance to win Tort Reform. We need every doctor on board.

You are either with us or against us, there is no in between. That is not to say that we wish you to abandon patients or deny all care; absolutely not!!!

We are not trying to take this out on patients. We want to keep our patients on our side.

Internist- See the patient with shortness of breath, or chest pain.

Oncologist- Give chemotherapy

Nephrologist- Do dialysis

Surgeon- See the post-op patient complaining of fever

Pediatrician - don't anger the mother with a child with fever

Cause confusion and inconvenience. Let them know that this is the healthcare system of the future if it is not fixed now.

And get every man, woman and child to fill out a petition  
Petition

Fax to Governor McGreevey at (609) 292-3454

If there are children in my waiting room with their parents, they are signing a petition in crayon and we fax it to the Governor, I kid you not!!!

The Governor should feel a kick in the pants from every living thing in New Jersey!!!

Sorry you haven't heard from me in the past few days; I am still a busy practicing Surgeon.

Here's what your colleagues are saying:

Good evening Steve: Today's BOT Meeting at MSNJ prompted me to send you this e-mail with its attached article, Lincoln Was Wrong, and the cover letter to Paul Hirsch, editor-in-chief New Jersey Medicine. Best wishes in your endeavors. Please add me to your e-mail list. Warm regards. Ralph Kristeller, MD.

### Lincoln Was Wrong

The opinions stated here are those of the author and do not necessarily reflect the management!!

I am informing and enlisting Grace Marie Turner (formerly Grace Marie Arnett) of The Galen Institute in Washington DC in our battle. She is close to this Administration. She needs information and answers to the likely objections Democrats will have to the President's Bills addressing our concerns. She wants, in particular, answers to the statement that it is the Insurers who are increasing their premiums, and this will not be responsive to caps. (ie, insurers are making up their market losses, or just plain greedy). Good well thought out and documented answers would be helpful in countering the Democrats in Congress who will try to prevent the bill's passage. Thank you for doing your excellent work.

Lois J Copeland MD

This is not about the insurance industry. An insurance companies job is to take in more premium than they pay out in claims. We expect nothing more and nothing less from the Liability insurance industry.

If the market is such that expenses are ever increasing and unpredictable, the insurance company has no alternative but to charge outrageous premiums to cover all conceivable losses. Yes, the economy may have some impact as well, but that does not in any way lessen the fact that ever increasing, unpredictable, accelerating jury awards are creating an extremely unstable environment in Medical Liability Insurance. The companies involved have two choices; stop selling policies or raise premiums to a level that will cover all conceivable losses for the "predictable" future.

Many companies chose the former; the remaining companies chose the latter.

For the physicians of NJ, WVa, Pa, MS, FL, NV, etc. this means paying the higher premium.

What if that premium is \$40,000.

What about \$100,000 or the highest I have heard is \$1.4M

New Jersey is losing the best and brightest physicians especially in the high risk specialties of Obstetrics, Neurosurgery, Cardiac Surgery, General Surgery, and others.

All specialties are effected to varying degrees but, depending on where you

live in the good old USA, you may find that your access to specialty care is limited or completely lacking.

Must we wait until there is no Neurosurgical or Obstetrical Care left in New Jersey before the legislature acts?

What would a Trial Lawyer call such a delay in action... Gross Negligence!!!

Our Legislature, Particularly Assemblyman Cohen, Senator Vitale, Senator Matheussen and Governor McGreevey are GUILTY of gross negligence in rectifying the Medical Liability Insurance Crisis of New Jersey!!!

Caps work!! California and other states have had caps on non-economic damages for years. Every state with caps is not in crisis. No body can say that patients have suffered from poor healthcare because of caps. The only reason to resist caps is for the preservation of multi-million dollar income for a small group of trial lawyers. Assemblyman Cohen, Senator Matheussen and Governor McGreevey are trial lawyers. Question... Why are they against Caps on non-economic damages.

Could it be that it would affect their income and the income of their partners in their Law Firms??  
Hmm, I wonder?

please see

[http://www.hcmsdoctors.org/Politics/Articles/mi\\_cra\\_background.htm](http://www.hcmsdoctors.org/Politics/Articles/mi_cra_background.htm),  
<http://www.hcmsdoctors.org/Politics/Articles/How%20Changing%20MICRA%20Will%20Affect%20Healthcare%20Access.htm>

,  
<http://www.hcmsdoctors.org/Politics/Articles/MICRA.htm>,  
<http://www.hcmsdoctors.org/Politics/Articles/MICRA%20Works.htm>,  
<http://www.hcmsdoctors.org/Politics/Articles/HHSreport.pdf>,

Does that answer your question?

This is another one of these news story about the N.J. medical malpractice crisis, doctors driven out of state, stopping ob, even forced to shutter their practices, -- and it's dated January 20, 2002.  
This has been going on for a year and state legislature has done NOTHING.

Thanks Anne:

This could be the headline in the Star Ledger in two weeks!

Tort reform could happen tomorrow if the legislators feel motivated.

Send Steve more doctor's e-mail addresses!

What do you all think of this email that I received?????? Is there something to this??

Attorney, 30 years of practice, teach law at MSU [Sch of Bus], teach dispute resolution Masters Program, Sch of Com. Rutgers, was on the complex

commercial case panel AAA.

Vol'y arbitration is a private contract. To my knowledge, don't see healthcare industry an impediment.

Good luck.

Suggestion: voluntary arbitration creates a binding judgment. Every patient can be asked to sign a statement agreeing to binding arbitration. Consequential damages can be excluded and direct damages can be limited. It is cheap, simple and legally effective. You don't need legislation. the arbitration panel can be drawn from local non-interested physicians, lawyers, business people, etc.

Impact: Your insurer would not be subject to consequential damages, its liability would be limited and that should affect your rates.

This is not legal advice, but merely a suggestion. Please run all legal issues by your attorney.

Hope that is helpful.

Bruce

It's called binding arbitration and is the system of resolving these types of disputes in some countries more civilized than our own. Good luck getting patients to sign such an agreement. You are asking them to give up their constitutional right to sue you!!

Please see:

<http://www.hcmsdoctors.org/Politics/Articles/common%20good.htm>, and  
<http://www.hcmsdoctors.org/Politics/Articles/Food%20for%20Thought.htm>

Steve,

It never ceases to amaze me how stupid we as physicians are collectively. It also never ceases to amaze me how spineless we are.

For many years, we have been tread upon by insurance companies, bureaucrats and trial lawyers. We have accepted outrageous decreases in our fees, ridiculous awards for trial lawyers and some patients who think that physicians are their winning lottery ticket due to a crazy tort system and an absurd overhaul of our profession by the bureaucrats and insurers. We have literally been raped and sodomized as a profession. And we have accepted all of this without a fight. All we have done is bitch about it in the hallways but really have done nothing.

Finally, a few doctors such as yourself, through hard work and determination, have organized an unprecedented critical mass of physicians who are finally willing to express outrage at the present system. You are right, this is a war, and losing is not an option. This is our LAST chance to get our collective self respect back and to put the medical profession back into our hands.

I have discussed the job action with many of my colleagues. While most are

supportive, many remain on the fence or are too afraid to act. There is absolutely no excuse for any physician in this state not to act. Anything less than total support could only be secondary to greed! Let the next guy do the work and I'll get a few extra cases - that's typically what I would expect from those who don't participate.

Any physician who doesn't want to participate shows just how disrespectful he is of his colleagues and of his profession. He should be ostracized by his colleagues both professionally and economically just as any other "scab".

Some may be offended by these comments. However, this is THE fight of our professional lives. If we don't win this through TOTAL cooperation, we will forever be stepped on by politicians, insurance companies, trial lawyers and patients who think we're the winning lottery ticket. If we win, we will bring back self respect and dignity to a profession that is rapidly self destructing. Only we can do this and the only way we can do this is through a unified front. There will be no tomorrow for us if we can't stick together today.

Bob

There are no second chances. 1 Month from now we will be at war with Iraq. Perhaps there will be more acts of terrorism perpetrated by maniacs from abroad. The legislature, the press, and the public will not be concerned about our plight and frankly neither will we.

The time is now.

Either you are with us or against us!!

Steve,

Please encourage all the participating doctors that they must not go into the job action saying that it will be for 3 days. This information will reach the politicians and they feed on it. Also it will set us for failure.

Also it is possible that if the action is as wide spread as expected, the politicians will act quickly. We will see quick and correct steps taken to reform.

To fight to the END should be our plan, we may not need to do so.

Good job.

Samyadev Datta

You don't need me to encourage anyone. You will do it for all of us.

It's now or never!!

Dear Steve,

Good work, keep it up. Are we going to go to Trenton on the 4th? I think we should, definitely. Now a P.S. for the light side: it took me a little to figure out what a fopah and then a fopah is, guess you meant a misstep and you used the french in fonetic writ !?

All the best, A. Popa, MD

Yes, we are going to Trenton on the 4th unless the Governor chickens out of his budget hearing in which case we will go on the 6th. Stay tuned.

I did not know "faux pas" was french. See, I can still learn something from doing this.

Tom, Steve, Anne, John, and all:

Please consider the attached unified statement for our waiting rooms etc... I am disturbed by some letters I have seen which are somewhat unfriendly or too complicated. I will present it at our Medical Board tomorrow for approval etc...

Jack Tohme, M.D.

TO OUR PATIENTS

There are several versions coming out and I think they are all pretty good. Keep em short 'n sweet.

I think that the NJHA flyer is terrific.

It shows a photo of a very pregnant young woman and the text says:

She's delivering in  
three weeks.  
Unfortunately, her  
Doctor  
was forced to close  
his doors today.

Runaway claims are driving up the cost of malpractice insurance...  
so much that doctors are closing their practices and leaving New Jersey.  
And our hospitals and physicians are in danger of cutting back vital  
services.

Help keep our doctors here.

Help put a cap on claims for "pain and suffering"

Help put time restrictions on filing claims.

Help eliminate frivolous suits without giving up your right to sue.

Tell your legislators to support tort reform.

Call now

We'll make sure they hear you.

Call 877-KEEP-MDS

KEEP GOOD DOCTORS HERE.

1. Ray-- can we all get copies of originals? I re-xeroxed a xerox, and its a little faint for distribution. I have it in a clear upright 8 X 10 lucite holder, next to the dedicated Malpractice Crisis Hotline Phone.

2. Jack-- your letter is very clear and factual-- I don't think my patients would read it all the way through. I think we have to keep it simple--

there is a malpractice crisis, it is the best and brightest doctors, you will lose your doctors, call your legislators).

3. My understanding is that this is a good number to call (877-KEEP-MDS) because it's supported by the NJ Hospital Association, and they will guide the person to the right legislator.

All my best,  
Anne Sumers, M.D.

Managing Partner, Ridgewood Ophthalmology  
1200 East Ridgewood Avenue  
Ridgewood, New Jersey 07450  
Phone: (201) 612-0044  
FAX (201) 612-9446

Top Doctors in America, 1998, 1999, 2000, 2001, 2002

Who's Who in America, 1998, 1999, 2000, 2001, 2002

Democratic Nominee for United States Congress, 2002, 5th Congressional District, N.J.

Team Ophthalmologist, New York Football Giants  
N.J. Medical Malpractice Crisis

1. The best and brightest surgeons and obstetricians are being driven out of N.J.. Warren County's last two neurosurgeons moved to New York. Valley Hospital's Chairman of Cardiac Surgery is being driven out February 28, 2003. Many of the doctors are listed in "Top Doctors in America," "New Jersey Magazines' Top Doctors," and are respected department chairs. This is not about "bad doctors".

2. The New Jersey State Legislature needs to pass real tort reform, including caps on pain and suffering, now. In Nevada, the shock trauma center in Las Vegas was closed. A meaningless "tort reform" bill was passed. No caps on damages were passed. The Nevada malpractice crisis continues. Right now, in 2003, women have to drive to Utah to deliver.

3. Caps on pain and suffering worked to control skyrocketing malpractice costs in California, and 8 other states, and it will work in N.J. This is a national crisis, especially in FL, MS, WV, TX, and Pa. President Bush advocates caps on pain and suffering of \$250,000. (Over the past 3 years, runaway jury awards in Philadelphia have awarded more in malpractice damages than the entire state of California!)

4. Doctors have lobbied fruitlessly for over a year. Now insurance companies are cancelling them. If tort reform is not passed immediately, more doctors will leave. In Ohio, tort reform with caps was passed in one week. In West Virginia, doctors walked out January 1st, 2003 and caps on pain and suffering (and limitations on liability) passed through the State Senate Judiciary Committee 16 days later.

Please see the links page at [www.hcmsdoctors.org](http://www.hcmsdoctors.org) for links to NJCUHA, The Legislature, The Governor, MSNJ, The White House and many others.

Just so you know what the "public citizen" is saying.

Public Citizen | Press Room - Medical Malpractice Insurance Crisis in Pennsylvania a Result of Economic Cycle, Doctors Who Err; Bush Administration Study Flawed

Another phony study put out by the trial lawyers. They cannot win this debate on the merits of the truth. The only chance they have is to lie and cheat often and loudly so that the big lie sounds like the truth to the average Joe.

#### State Starts Reviewing Biggest Insurance Hike's in Doctors Insurance

steve:

I am very troubled and concerned by the "limited" demonstration suggested by some of our fellow physicians. We must be committed to go the distance. I assume that there will be an ongoing evaluation of how effective our strategy is, and that we need to reevaluate at the end of the first week. If the Legislature has not moved at all, we have two strategies 1. continue the job action 2. stop and take it to the national level. Despite Bush's support I still do not think the latter is an option.

No physician is suggesting that we abandon our pts or place them in jeopardy. Unfortunately we have the extremely difficult task of being bladerunners on a sharp knife - on the one side not to be irresponsible on the other to gather effective support. This support can ONLY be gained through BOTH public opinion and the media. Thanks to people like you John and Ruth as well as many others there is a new location to where funds can be sent for the PR firm which will deal with the media support, the other is up to us.

Public opinion must be on our side so we cannot alienate our pts(i would agree that it would it is a bad idea to allow pts to come to the hospital for surgery without WARNING them that they will be cancelled or have significant delays. But in the same light surgeons who have cancelled elective cases for that week SHOULD NOT RESCHEDULE) . We can significantly inconvenience them(which is NOT irresponsible) and direct their anger from this to help our cause. Educate them , have them write letters, make phone calls , write letters to the editor of your local newspaper etc.

MOST IMPORTANTLY, our pts must TRULY EXPERIENCE significant delays, inconvenience and INABILITY TO CHOOSE a physician to UNDERSTAND the full impact of what this crisis is all about, and that down the line, without reform, it will not simply be days or weeks but an indefinite problem.

We must have one exit strategy-Until we get caps, the job action continues. Do not be afraid ,if we stand united this will be over shortly. Do you really think that if there is no elective care in NJ for over 1-2 weeks that there will not be reform??Have more faith in yourselves and the UNIQUE and LIFESAVING CARE you provide. No one else can do it but YOU.

Alan R. Gwertzman, MD  
Chairman, Dept of Anesthesia Holy Name Hospital

Thank you Alan. There is no exit strategy. We stop this action when we get Tort Reform with caps, etc. and not before then. Anyone who thinks that they can have a "job action" for 2 days and then go back to normal with the threat of another action is simply delusional.

This is our chance. Take that chance now or it will forever pass you by.

Dear Steve,

At the top of every update that you write, I suggest you bring everyone up to date. For more doctors, this is their first time reading the forum, and it is a little confusing.

I suggest something like:

---

New Jersey has been in malpractice crisis for over a year. The best and brightest doctors have been, and are being, forced out of New Jersey. Doctors and MSNJ have lobbied the N.J. Legislature and the Governor this entire year to no avail. Last year, some doctors were able to get one year extensions. These extensions are now expiring, and doctors are being offered skyrocketing insurance rates (sometimes 600 times higher).

Facing a deaf legislature for a year (especially State Senators Matheussen, Vitale, and Cohen) and a Governor who does not wish to see a crisis, seeing our colleagues (including our chairman of departments) having to close 20 year practices and move thousands of miles from their family, doctors individually and separately decided to close their offices, cancel all elective surgery, cancel endoscopy/colonoscopy, cancel mammography, and demonstrate everyday until the State Legislature put caps on pain and suffering.

Caps on pain and suffering work. In California, where there are caps on pain and suffering, obstetricians pay \$46 to \$57,000 for malpractice for 1 year. In Florida, where there are no caps, obstetricians pay \$108,000 to \$208,000.

Tell patient to call the NJHA Hotline (1-877-KEEP-MDS) and they will be directed to their legislative representatives.

This will work. In WV, a 16 day walkout by 30 doctors got them action. In Ohio, the threat of a doctor walkout got caps on pain and suffering passed. In Nevada and Pennsylvania, meaningless "tort reform" without caps on damages was passed-- and the crisis continues in both states.

Send me the e-mails of your medical colleagues. They need to know what is happening

We can't work until we have caps on pain and suffering.

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All my best,  
Anne

I feel like journalist, rabble rouser, public relations, strategist, motivational speaker oh yeah and occasionally, a doctor!!

Attention all counties! Attention all doctors!

1. What your county is doing  
(of course, everything is tentative but it gives us a framework)
2. Who the key point people are and all contact info

Send me an e-mail (no attachments, please!) to [annesumers@aol.com](mailto:annesumers@aol.com)

ie: True example:

.....  
.....

Middlesex County

February 3 Rally at St Peter's University Hospital

February 4 Two buses to March on Trenton

February 5 Tentative: March on Senator Vitale's office

Point Person (or people): Dr. Richardson; phone #; e-mail; FAX; beeper, home#

.....  
.....

This way, if something changes, or one of our rallies falls through, or the Trenton date changes, we can contact every one.

Thank you Anne. We need to be in constant communication around the state.

Steven, a quick question...lots of legislature email addresses and phone numbers have been posted. who should I direct my patient's to forward his and her letters to? Gov McGreevey? or specific senators (pro or con)?

I'll be handing out a copy of the letter to every patient I see in the hospital and office as well as friends and family all over NJ starting today. I would like to include a list of the 2-4 key legislators they should contact.

Thanks!

Dan Zirkman, MD

These are the legislators most against us and who must be pressured by their constituents in NJ:

Assemblyman Neil Cohen District 20, Elizabeth City, Kenilworth Borough, Roselle Borough, Union Township

Senator Joseph Vitale District 19, Carteret Borough, Perth Amboy City, Sayreville Borough, South Amboy City, Woodbridge Township

Senator John Mattheusen District 4, Clementon Borough, Franklin Township, Glassboro Borough, Gloucester Township, Laurel Springs Borough, Lindenwold Borough, Monroe Township, Newfield Borough, Pitman Borough, Washington Township

Senator Mattheusen is a Republican, by the way and may be swayable.

Finally our illustrious Governor McGreevey. Office (609) 292-6000, Fax (609) 292-3454

Have every man woman and child in the state of New Jersey call, fax and e-mail this man demanding tort reform that includes caps on non-economic damages.

Dear Steve,

I am a neurologist and have been involved in political action for many years, particularly in the area of Auto Insurance Reform. I am a member of Governor McGreevey's transition team for the Department of Banking and

Insurance, an officer the state Neurological Association as well as their representative to MSNJ and President of the State Association of Electrodiagnostics. Many of my closest friends are politicians. I'm also the one with the radio program on WOR (250,000 listeners) Saturday evenings at 7 PM

The collective and justified anger of the medical profession can bring about significant changes in many areas of the medical profession but only if done in a carefully orchestrated and organized fashion. Amateur efforts by individuals can only hurt. There are well-recognized public relations firms which can help you deal with the press and the legislature. I would suggest you call Clark Martin of MSNJ and ask him the name of the best ones and immediately hire one. They will teach you how to focus your energy in a proper and effective fashion. You should also be raising money to accomplish this task and need to form some sort of vehicle specifically for that purpose (the lawyers do it all the time).

While I'm in agreement with the job action and will participate, I feel you need to focus more on the insurance industry's role here. Ultimately, they're the ones who set the rates and, quite frankly, are the ones to blame for the present situation. The legislature is a means to an end, but only if the insurance industry can be influenced and they are exceedingly powerful.  
(go to [www.politicsnj.com](http://www.politicsnj.com) and read former Governor Florio's letter)

If all of this zeal is perceived as a bunch of half-cocked whining millionaire physicians, the efforts will go nowhere and you'll continue to be murdered by the national press.

As someone who has been fighting this battle for 15 years through four gubernatorial administrations, I think I've gained a bit of experience in how to deal in this area. I would be happy to speak with you personally and devote some time to this issue on my next program.

with best wishes,

Steven Lomazow, M.D.

Thank you Steve. I have learned over the past two days that MSNJ and all of the grassroots efforts in this endeavor are in fact in the process of hiring professional PR firms and we are beginning our own Spin.

This takes money\$\$\$

Every person reading this e-mail tonite, crack open your piggy banks and invest \$1000 in MSNJ and another \$1000 in Medac. Consider it the best investment you will ever make. Secure your future.

The trial lawyers spend \$10,000 per annum for their own interests. There are about 350 of them in New Jersey. That's \$3,500,000 that they contribute to PR and political campaigning.

There are 23,000 physicians in New Jersey. Not including this time of emergency, if we were each to spend \$1000 per year that would be \$23,000,000 for similar endeavors.

Let's make this more expensive for them to keep screwing with us!!!!

Should the society promote binding arbitration in addition to everything else?????? What does everyone think????

Alan Zaccaria, MD

Sure, but you'll never get it. We are in the fight of our lives to reform the tort system. How in the hell are we going to convince them to trash the system for another that is less expensive, provides more benefit to the injured person in much less time, is far easier to administer, but oh doesn't involve trial lawyers making millions.

I saw McGreevy at a MSNJ meeting when he was campaigning. He spoke about his brother-in-law who is a Pulmonologist. Does anybody know who he is and where he practices? Does he have anything to say about the situation, and if he is in state is he in support of us?

I don't know. Anybody out there know?

Interesting statistic:

Over the last 3 years, more money has been paid out in malpractice awards in Philadelphia than was paid in the entire state of California.

President Bush made that quote the other day.

ALL:

The following attachments will be on our website. Please direct your colleagues to our site @ [www.njforhealthcare.org](http://www.njforhealthcare.org). Thank you for your support! Happy Holidays!

Ray

Your site is linked from the HCMS site from the "more links" page. Many other links are provided as well.

Steve: We continue to work here in Camden and Burlington Counties, mobilizing the Virtua System to Feb. 3 action. Here are new names: I enclose the "brief version" of what we have told our patients who needed to be rescheduled. Also, in brief, what we are sending to our physicians. We are planning to be available ONLY for patients who cannot be transferred to other institutions. We think that anything less than that sends a weak message. The current system needs to be disrupted to make the point. Keep up the work. Howard Winter

What to tell patients  
To Our Colleagues

Thank you all for your contributions. I certainly could not do all this research myself. Keep the cards and letters coming.

We Can Not, We Will Not Fail!!!

We Need Tort Reform Now!!!

Sincerely,

Steven P. Shikiar, MD, FACS  
Vice President, Hudson County Medical Society