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February 28, 2017

U.S. House of Representatives
Judiciary Committee
Washington, DC 20515

Re: New Public Citizen Report Refuting False Arguments behind H.R. 1215: the “Protecting Access to Care Act of 2017”

Dear Chairman Goodlatte, Ranking Member Conyers, and Honorable Committee members,

Public Citizen is a national non-profit organization with more than 400,000 members and supporters. We represent consumer interests on a broad range of issues including patient safety and the rights of harmed individuals to hold corporate wrongdoers accountable in the court of law. We urge you to oppose H.R. 1215 (and the Managers’ Amendment or any substantially similar version of the bill.)

An essential component of the American justice system is ensuring injured patients are fully compensated for their injuries. Capping non-economic damages-- as this bill does at \$250,000-- leaves families without recourse if they are faced with the horrific impacts of medical malpractice: a loved one neglected in a poorly-run nursing home, a newborn injured during delivery, a woman sexually assaulted by a doctor, or any other number of devastating harms the compensation for which would be limited by provisions H.R. 1215.

Other issues with the bill affecting state statutes of limitation, joint and several liability, and attorney fees would deter patients from pursuing legitimate claims. Studies have shown that this will push costs onto taxpayers when injured patients are required to use the assistance of government agencies for their care.

These bills would also take the unprecedented step of preempting a broad swath of state medical malpractice laws—an area in which federal law provides no remedy and has historically left to the states. Despite attempts to counter this restriction of states’ rights, the bill would take power away from the legislatures, courts, and juries of the 50 states, replacing them with a one-size-fits law that fits defendants’ interests far better than patients’.

This bill also lets doctors off the hook for negligent prescribing, as long as the drug or device was U.S. Food and Drug Administration (FDA) approved (or, if a device, approved or cleared). For example, suppose, the patient is allergic to a drug and her chart states that she is allergic, but the doctor

carelessly prescribes the drug anyway. No matter the harm to the patient (even death,) there would be no suit against the doctor.

The arguments made in favor of this legislation are easily proven to be false. Public Citizen has today released a new [report](#) outlining the ways in which the real problem in the American health care industry is patient injury—not the high cost of medical malpractice payments. Our report, "[The Medical Malpractice Scapegoat](#)," shows that:

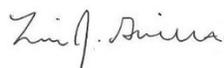
- The number of malpractice payments made on behalf of doctors in 2015 was the lowest since the government began tracking the information a quarter century ago;
- The cumulative value of such payments was lower in 2015 than at the end of the Clinton administration and lower than during any year in the George W. Bush administration; and
- Medical liability insurance premiums paid by doctors and hospitals have fallen for nine straight years and were lower in 2015 than in any year since 2003, the earliest year for which Public Citizen was able to obtain this information.

Our report also documents that over the past 20 years, avoidable errors kill anywhere from 44,000 to 400,000 people a year. In contrast, an average of fewer than 13,000 malpractice payments a year have been made on behalf of doctors over the past quarter century. Moreover, our report shows that accountability from the civil justice system has spurred quality improvements that have reduced litigation and saved lives. For instance, New York Presbyterian Hospital-Weill Cornell Medical Center undertook an obstetrics safety initiative and the hospital's obstetrics-related liability payments subsequently declined by 99 percent.

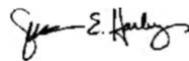
When American constituents are standing up at town halls and other venues across the nation and making their voices heard that they want more and better health care, why isn't this Committee focusing on fixing the problems that cause patient injuries instead of limiting the ability of harmed patients to be fully compensated in a court of law?

We urge you to oppose H.R. 1215.

Sincerely,



Lisa Gilbert
Director
Public Citizen's Congress Watch division



Susan Harley
Deputy Director
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