The Protecting Access to Healthcare Act

H.R. 5, the Protecting Access to Healthcare Act, was introduced in the 112th Congress. The legislation would repeal the Independent Payment Advisory Board (IPAB) which is tasked with finding Medicare savings, and it would pay for the repeal by placing caps on medical malpractice claims. It would cap both non-economic medical malpractice damages and punitive damages at $250,000 and establish a three-year statute of limitations on all “health care lawsuits.”

Even though advocates insist that much of this legislation would reduce malpractice rates or health care costs, increasing evidence shows otherwise. The ABA strongly opposes caps on damages and other procedural impediments to recovery by victims of the negligent acts of others. Instead of resurrecting these old failed policies, the ABA recommends the use of alternatives to litigation for resolution of medical malpractice disputes, but only when such alternatives are entered into on a voluntary basis. On March 19, 2012, the ABA sent a letter to Members of the House of Representatives urging them to vote “no” on H.R. 5.

On March 20, 2012 the Obama Administration also expressed serious concerns with key aspects of the medical malpractice provisions included in H.R. 5, stating:

> The goals of medical malpractice reform should be to provide fair and prompt compensation to patients who have been harmed by medical negligence, reduce preventable injuries, improve the quality of care, reduce defensive medicine, and lower medical liability premiums. However, H.R. 5 would establish inappropriate and harmful restrictions on health care lawsuits without effectively meeting these goals. Specifically, the Administration opposes placing artificial caps on malpractice awards which will prevent patients and other claimants who have been wrongfully harmed from receiving just compensation.

> The Administration is committed to strengthening Medicare, protecting patients, and supporting the physicians who care for them. We believe that this legislation fails to accomplish these goals. If the President is presented with H.R. 5, his senior advisors would recommend that he veto the bill.

On March 22, 2012 the House passed the bill by a vote of 223-181, but it was never debated in the Senate and has yet to be introduced in Congresses since.