

COMMENTS FROM PAUL DAYTON, DPM
REPRESENTING THE IOWA PODIATRIC MEDICAL SOCIETY
BEFORE THE MEDICAL MALPRACTICE INTERIM COMMITTEE
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My name is Paul Dayton, DPM. I am a Podiatrist, Foot and Ankle Specialist with Trimark Physicians Group, a multi-specialty medical group with 67 providers in Fort Dodge IA. As well as an active practice in Fort Dodge and surrounding communities, I serve on the Board of Directors of Trimark Physicians Group, Clinical Practice Committee of Trimark Physicians Group and Finance Committee of Trimark Physician Group. I am currently the President Elect of the Trinity Regional Medical Center, Medical Staff and serve as Chairman of the Peer Review Committee of Trinity Regional Medical Center. I am here today representing The Board of the Iowa Podiatric Medical Society, of which I am a member, to give testimony regarding medical liability insurance reform.

The escalation of medical liability rates has had a direct adverse impact on our medical practice over the past 5 years. The current system must be critically analyzed and reforms made to assure viability of both small and large medical practices into the future. The cost of medical liability coverage has increased far faster than the rate of any other direct practice cost we incur. Within Trimark, all 15-specialty groups have seen increases in liability rates ranging from 209% to 431% between the years of 2001 and 2005. These increases are despite our group maintaining a very aggressive clinical practice committee to oversee quality and credentialing. These increases have continued to escalate despite the fact that we maintain a very favorable loss profile. In fact, it is only because of our favorable loss profile and clinical practice efforts that we are able to continue to secure coverage through conventional carriers and keep the rates from going even higher. Liability coverage costs are now driving budgetary and operational decisions such as staff salaries and service lines. These increases are coming at a time over the past decade when reimbursement for medical care is declining. Nearly all practitioners have had to increase patient encounters to keep their practices financially viable. There are a finite number of hours and patient contacts that can be maintained without decreasing quality and increasing errors. Certain specialties no longer provide services due to the cost of insurance, the lack of availability, or impractical cost of coverage. We have seen this in general surgery, family practice and obstetrics in our group. This trend is having and will continue to have an adverse effect on medical care delivery as physicians opt out of "high risk" specialties and procedures, and are forced to work longer hours to cash flow their practices.

If large groups whom have put in place well developed plans to promote quality and compliance such as Trimark are unable to control their liability costs beyond 50-100% increases yearly. How is the independent practitioner or small group going to be able to continue to sustain a viable practice? Many practitioners are faced with the reality of going without medical liability coverage and others have simply quit practice or moved on to other professions or locations. Physicians by nature want to excel and provide the best care for their patients. They are committed to expanding their knowledge of the

latest methodologies to advance their skills in their profession. Liability coverage and the threat of litigation should not be a prime determinate of how a physician practices. It should not drive patient care decisions and dictate pace of practice. Liability coverage should be available and reasonable, to protect the public only in clear cases of negligence. Complications, unexpected outcomes and dissatisfied patients are a reality in medicine but do not constitute malpractice. We must have a system that considers the complicated nature of medicine and appropriately assigns liability. We must continue to educate the public regarding the reality of medical outcomes and the distinct separation between a less than desirable outcome and negligence. Our current system promotes suspicion of the medical care provider and views medical liability too much as a means to compensate dissatisfied patients. There is and should be easy access to the legal system to protect the public, however we cannot allow frivolous use of the legal system to drive the economics of practice that we currently see. We must understand that many medical realities have no cure and that there are not treatments or answers to satisfy every patient. Frivolous law suits ultimately hurt the system more than they help the dissatisfied patient. If we want to continue the fast paced improvements and innovations we all expect from our medical system, the system must have help assuring reasonable tolerance of the medical realities that are part of the art and science of medicine.