



July 27 2005

Honorable Phil Gingrey
U.S. House of Representatives
Washington, D.C. 20515

Dear Representative Gingrey:

I am writing in support of the "Help, Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act of 2005" (H.R. 5) and also to express the American Benefits Council's views on specific provisions in the bill.

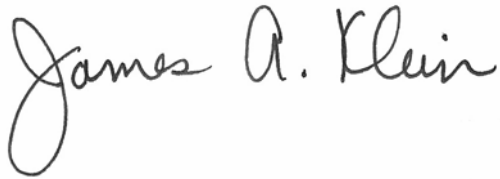
The American Benefits Council represents primarily large employers and other organizations that either sponsor or administer health and retirement benefits covering more than 100 million Americans. As major purchasers of health care services, our members have a strong interest in medical liability reform. The impact of the current crisis in the medical liability system on rising health care costs is a key concern for employers and employees, along with the impact on access to health care services for patients in high-risk practice areas such as obstetrics and trauma surgery in some states. Sharply increased medical malpractice premiums have forced physicians and hospitals in some parts of the country to either limit their case loads or close their doors altogether.

Your proposal is an important bill for the employer community and we support the fact that the scope of protections and the reforms apply to all parties in the health care system. Any federal medical liability reform legislation must apply equally to health plan actions determined by the courts to be subject to state law that might also be applicable to the actions of a health care provider. Efforts to limit excessive health care litigation will only succeed if all of the parties are covered by medical liability reforms. Therefore, the Council recommends that section 13, expressing the "Sense of Congress" regarding the liability of health insurance plans be deleted from the bill. This provision unfairly singles out one potential party in a medical liability dispute. Just as employers believe the scope of the protections and the reforms should apply to all parties in the health care system, any statements on who may bear responsibility for harm alleged by medical liability claims should apply to all parties and should not predetermine fault.

The Council also recommends that you include provisions in your bill requiring responsible third parties to pay the medical expenses of an injured individual and avoiding double recovery of medical expenses. Eliminating existing subrogation rights that allow employers and insurers to be reimbursed for funds they have spent on behalf of parties who subsequently recover such funds through a lawsuit against the party responsible for their injuries would cause more costs to be shifted to parties who are not responsible for causing harm.

On behalf of the American Benefits Council I commend you for your work on medical liability reform and stand ready to assist you in securing passage of this important legislation during the 109th Congress.

Sincerely,

A handwritten signature in black ink that reads "James A. Klein". The signature is written in a cursive style with a large, looping initial "J".

James A. Klein
President