

## VERMONT MEDICAL SOCIETY RESOLUTION

### **Need for Tort Reform in Order to Address Defensive Medicine**

*Submitted to VMS Council by VMS Executive Committee - September 7, 2010*

1 WHEREAS, According to the survey published on June 28, 2010 in the Archives of Internal Medicine,  
2 91 percent of doctors surveyed answered in the affirmative to the following two questions: "Do  
3 physicians order more tests and procedures than patients need to protect themselves from malpractice  
4 suits?" And, "Are protections against unwarranted malpractice lawsuits needed to decrease the  
5 unnecessary use of diagnostic tests?" and  
6

7 WHEREAS, A VMS survey of Vermont physicians found that concerns about potential lawsuits  
8 affected certain types of decisions physicians made, including ordering tests, imaging, and lab work and  
9 referring patients to specialists; and  
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11 WHEREAS, In October of 2009 the nonpartisan Congressional Budget Office (CBO) released a report  
12 indicating that lowering the cost of medical malpractice tends to reduce the use of healthcare services  
13 and the CBO estimates that implementing a typical package of tort reform proposals nationwide would  
14 reduce total U.S. health-care spending by about half a percent, or \$11 billion; and  
15

16 WHEREAS, CBO's research also indicates that tort reform could affect costs for healthcare both  
17 directly and indirectly: directly, by lowering premiums for medical liability insurance; and indirectly, by  
18 reducing the use of diagnostic tests and other health care services when physicians recommend those  
19 services principally to reduce their potential exposure to lawsuits; and  
20

21 WHEREAS, According to the American Medical Association, more than 42% of physicians have a  
22 medical liability claim filed against them at some point in their career and even though the vast majority  
23 of claims are dropped or decided in favor of physicians, the understandable fear of meritless lawsuits can  
24 influence what specialty of medicine physicians practice, where they practice and when they retire; and  
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26 WHEREAS, a 2005 BISHCA report on "Medical Malpractice Liability Insurance In Vermont" indicated  
27 that medical liability insurance premiums for OB/GYNs in Vermont represented between 19 and 30  
28 percent of their wages; and  
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30 WHEREAS, Vermont has a well-documented shortage of primary care physicians, general surgeons,  
31 orthopedic surgeons and other specialties that adversely impacts access to health care services and for  
32 Vermont to attract and retain physicians it must improve its practice environment; and  
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34 WHEREAS, Addressing the costs of malpractice insurance and a tendency to over treat patients in  
35 order to avoid lawsuits is a much needed approach that will ultimately benefit patients and their  
36 physicians; therefore be it  
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38 **RESOLVED, In order to improve the state's medical liability climate and address the practice of**  
39 **defensive medicine, the Vermont Medical Society will work with the Governor and the General**  
40 **Assembly to establish pretrial screening panels, to require a certificate of merit, to establish**  
41 **expert witness standards, and to move to an administrative process for addressing adverse**  
42 **events.**