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VMS RESOLUTION
ENACTMENT OF NATIONAL MEDICAL LIABILITY REFORM

Adopted at 191st VMS Annual Meeting, October 23, 2004

WHEREAS, Vermont physicians' professional liability insurance premiums have increased by an average of 50 percent between 2001 and 2004; and

WHEREAS, During the same period, Vermont physicians' reimbursements have either been reduced, remained unchanged or only increased by single digits; and

WHEREAS, Higher professional liability costs are curbing the recruitment of young physicians and precipitating closure of practices and shortages of certain types of specialists and services; and

WHEREAS, On March 13, 2003 the U.S. House of Representatives passed H.R. 5, medical liability reform bill (the "HEALTH Act"); and

WHEREAS, The HEALTH Act makes a number of changes to the health care liability system, including limiting the number of years a plaintiff has to sue a physician or health care provider; allocating damages in proportion to a party's degree of fault; capping "non-economic" awards including pain and suffering at \$250,000; allowing patients to recover for economic damages such as future medical expenses and loss of future earnings without such a cap; and, limiting punitive damages to the greater of two times economic damages or \$250,000; and

WHEREAS, The Congressional Budget Office estimates that under H.R. 5 premiums for medical malpractice insurance would be an average of 25 percent to 30 percent lower than what they would be under current law; and

WHEREAS, The cornerstone of the HEALTH Act is the cap on non-economic damages of \$250,000, which is modeled on California's successful MICRA law; and

WHEREAS, Since the passage of MICRA in 1975, The Doctors Company, one of companies that provide medical liability insurance in Vermont, has lowered its medical liability premium rates in California by 40% in constant dollars; and

WHEREAS, In the recent Institute of Medicine report "Fostering Rapid Advances in Health Care," the IOM states that "the current liability system hampers efforts to identify and learn from errors and likely encourages defensive medicine;" and

WHEREAS, In Florida, Mississippi, Nevada, New Jersey, Pennsylvania, and West Virginia, some obstetricians have been forced to stop delivering babies, trauma centers have closed, and physicians are grappling with how they can continue to provide other high-risk procedures; therefore be it

RESOLVED, That the Vermont Medical Society urges our Congressional delegation to support the enactment of the "HEALTH Act of 2002" in order to reduce the prohibitively high cost of medical liability insurance premiums and to help ensure patients have continued access to physician services.