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November 14, 2007

The Honorable Edward G. Rendell
Governor, Commonwealth of Pennsylvania
225 Main Capitol Building
Harrisburg, PA 17120

Dear Governor Rendell:

Soon the General Assembly will present to you legislation to renew the Mcare Abatement Program. This vital initiative of your Administration has provided more than \$900 million in medical liability cost relief to Pennsylvania's physicians and preserved patient access to specialty medical care. For high-risk specialists – ob-gyn, neurosurgeons, orthopaedic surgeons, and general surgeons – the 100% abatement of Mcare surcharges has been the most significant reform measure enactment in the past 10 years. The immediate relief provided by the Mcare Abatement Program did more to stabilize the high-risk specialty community than any of the long-term reforms contained in Act 13 of 2002. We respectfully request that you support renewal this important program.

As you know, however, the Act 13, venue and other reform measures are maturing and having a positive effect on Pennsylvania's medical liability environment. These reforms have resulted in lowering the number of medical liability lawsuit filings and, while a trend has not been established, there is evidence that award and settlement amounts are decreasing. As a result, Mcare abatement payouts are declining and the Abatement Program currently has a \$440 million surplus. This is good news, but we do not believe it is cause to declare the crisis over. A second phase of the continuing crisis is upon us. In addition, insurance trends are cyclical and the next hard market may be in its early stages of development.

Across the Commonwealth, practices report that recruitment of the best and brightest young orthopaedic surgeons and other high-risk specialists continues to be difficult at best. This is no surprise since Pennsylvania retains only 8% of the medical residents trained at our world class universities, according to the Pennsylvania Medical Society's 2005 State of Medicine Report. Add to this the fact that according to the state Department of Health's 2006 physician supply report, more than 25% of all specialty surgeons plan on moving out of state or retiring by 2010. The combination of surgeons moving

and retiring at such a high rate while we are losing our ability to recruit physicians here is not good news for Pennsylvania's aging population.

Residents report that among the reasons they choose to practice in other states is Pennsylvania's healthcare environment – high liability costs, low reimbursements, and the Mcare Fund's nearly \$2 billion unfunded liability. Retiring Mcare's unfunded liability has long been a goal of the Administration, the General Assembly and the medical community. The Mcare Commission's recommendations were reported a year ago and we have been briefed on the retirement models created by your Administration and the Hospital Association of Pennsylvania. As a result, the Pennsylvania Orthopaedic Society (POS) has developed our own model that would not require bond financing. Just today, our proposal was sent to your staff for review. As you can see, progress is being made to resolve this resident recruitment barrier.

A critical element of the Mcare Commission Report and every retirement model designed to implement its recommendations is a premium stabilization fund. The fund would be used to hold the line on premium increases as physicians seek a greater share of their liability insurance from the private market during Mcare's phase out period. The revenue sources would be the Mcare Abatement Program's current funding mechanism – 25 cents per pack cigarette excise tax and the Auto Cat Fund surcharges. In addition, the Abatement Program's current surplus would be dedicated to premium stabilization and payment of the unfunded liability, since those funds were raised for a like purpose. This is a reasoned approach to maintain stability in the physician community, remove a major barrier to resident recruitment, and move the Commonwealth out of the medical liability insurance business.

It seems very unlikely that a Mcare retirement plan can be adopted in this year's remaining session days. There simply may not be sufficient time to carefully consider a model that satisfies the needs of all stakeholders. But renewal of the Mcare Abatement Program is absolutely necessary by the end of December. POS strongly recommends that you call upon the General Assembly to send you a "clean bill" that extends the Mcare Abatement Program, but does not divert any Abatement Program revenue or surplus to purposes other than abatement, premium stabilization, and payment of the unfunded liability. We believe that when a retirement model is adopted, all current Mcare revenue and surplus will be necessary to implement a reasoned plan for Mcare phase out.

Thank you for consideration of our position.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon B. Tucker". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Jon B. Tucker, MD
President

cc: Rosemarie Greco, Healthcare Reform Director
Steven Crawford, Secretary of Legislative Affairs