

F. JAMES SENSENBRENNER, JR.

FIFTH DISTRICT, WISCONSIN

SELECT COMMITTEE ON
ENERGY INDEPENDENCE
AND GLOBAL WARMING,
RANKING MEMBER

COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON
THE CONSTITUTION, CIVIL RIGHTS,
AND CIVIL LIBERTIES
RANKING MEMBER

COMMITTEE ON SCIENCE
AND TECHNOLOGY



Congress of the United States
House of Representatives
Washington, DC 20515-4905

WASHINGTON OFFICE:

ROOM 2449
RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-4905
202-225-5101

DISTRICT OFFICES:

120 BISHOPS WAY, ROOM 154
BROOKFIELD, WI 53005-6294
262-784-1111

OUTSIDE MILWAUKEE METRO

CALLING AREA:
1-800-242-1119

WEBSITE:

[HTTP://SENSENBRENNER.HOUSE.GOV](http://SENSENBRENNER.HOUSE.GOV)

September 10, 2009

The Honorable Barack Obama
President of the United States
The White House
Washington, DC 20500

Dear President Obama:

During your address to Congress last night you mentioned medical malpractice reform. I, and many others in Congress, was pleased to hear you raise this issue. You noted, "I have talked to enough doctors to know that defensive medicine may be contributing to unnecessary costs." As the former Chairman of the House Judiciary Committee, which has jurisdiction over this issue, I have also spoken with countless doctors who have expressed their desire to see medical liability reform enacted. I am familiar with the challenges to enacting reform, and also the economic benefits that reform would provide. I write to offer my assistance to help you make this cost-saving reform a reality as healthcare legislation is being discussed.

In 1975, California enacted the Medical Injury Compensation Reform Act, a law that has proved immensely successful in increasing access to affordable medical care in California since it was signed by Governor Jerry Brown—upon the recommendation of current House Energy and Commerce Committee Chairman Henry Waxman—then Chairman of the California State Assembly's Select Committee on Medical Malpractice. It has kept California medical malpractice insurance rates consistently over 300 percent lower than the national average.

The HEALTH Act, authored by Representative and physician Phil Gingrey, and included in the Republican healthcare plan, is modeled after California's decades-old and highly successful health care litigation reforms. In 2005, I shepherded the HEALTH Act through the House Judiciary Committee and it passed the House by a bipartisan vote of 230-194. This legislation would make federal law the same legal reforms California implemented over 30 years ago. This bill remains the "gold standard" for health care legal reform, and it continues to be supported by every major medical organization.

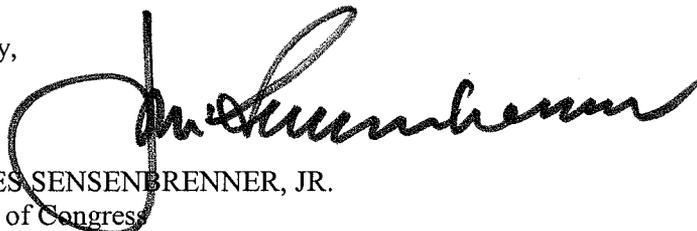
Two important reforms included in the HEALTH Act are a \$250,000 cap on non-economic ("pain and suffering") damages, and limits on the contingency fees lawyers can charge, so larger percentages of awards go to victims, not lawyers. It is important to note that the HEALTH Act does not limit in any way an award of "economic damages" from anyone responsible for harm.

This legislation would result in substantial cost savings. According to the Congressional Budget Office, "Under the HEALTH Act, premiums from medical malpractice insurance ultimately would be an average of 25 percent to 30 percent below what they would be under current law."

You noted in your speech last night that you would explore “authorizing demonstration projects in individual states to test these issues” and that you would direct Health and Human Services Secretary Sebelius “to move forward on this initiative.” With all due respect, I don’t think that we need to further test these issues. California, the most populous state in the Union, has already had such reforms in place since 1975. A number of other states, including my own State of Wisconsin, have seen the benefits of medical malpractice reform. It is time to apply these cost saving reforms to the rest of the country.

You stated that you wanted to work across the aisle and make listening to Republican ideas a priority. I believe that this issue presents the perfect opportunity for you to gain bipartisan support for your signature issue. I hope that you accept my assistance and we are able to work together to enact meaningful medical liability reform as part of healthcare reform.

Sincerely,

A handwritten signature in black ink, appearing to read "F. James Sensenbrenner, Jr.", written in a cursive style. The signature is positioned above the typed name and title.

F. JAMES SENSENBRENNER, JR.
Member of Congress