



AMERICAN ACADEMY *of* ACTUARIES

February 22, 2005

The Honorable Nathan Deal
Chairman, Subcommittee on Health
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Deal:

As a representative of the American Academy of Actuaries¹, I am writing this letter as a clarification to information provided to your subcommittee during the February 10 hearing on medical liability issues. In discussions of medical malpractice premium, Mr. Robert Hunter quoted a four percent (4%) medical malpractice premium growth from AM Best's Review and Preview. Because this statistic was inconsistent with my experience and expectations, I contacted AM Best and asked for an explanation of the relatively small change considering all the premium rate increases implemented by many of the reporting companies. According to AM Best, the calculation was not adjusted for the fact that some companies stopped reporting information in 2004. Ordinarily this would not have been a significant problem except that one of the largest writers of medical malpractice in the United States stopped reporting data in 2004 causing the premium increase of 2004 over 2003 to be distorted. Mr. Hunter's observation that "...the cycle has turned and the crisis is over," at least based on this statistic, seems unsupported.

Although aggregated Best premium data is sometimes used as an indicator of increases in rates, it can only be an approximation. Increases in self-insured retentions, deductibles and captive formations erode the year-to-year growth in premium and make this statistic less effective as an indicator of increasing rates. In the case of 2004, the change in reporting companies has also distorted the comparison. In my experience, the rate increases implemented in 2004, at least for most jurisdictions, were substantially more than four percent.

It was a pleasure to have met you and if the Academy can provide additional information, please let us know.

Sincerely,

James D. Hurley ACAS, MAAA
Member, Medical Malpractice Subcommittee

¹ The American Academy of Actuaries is the public policy organization for actuaries practicing in all specialties within the United States. A major purpose of the Academy is to act as the public information organization for the profession. The Academy is non-partisan and assists the public policy process through the presentation of clear and objective actuarial analysis. The Academy regularly prepares testimony for Congress, provides information to federal elected officials, comments on proposed federal regulations, and works closely with state officials on issues related to insurance. The Academy also develops and upholds actuarial standards of conduct, qualification, and practice, and the Code of Professional Conduct for all actuaries practicing in the United States.