



## Editor's Letter

David D. Vega, MD FAAEM

### Tort Reform

With healthcare reform occupying so much of the political stage this year, the relative paucity of discussion about tort reform is disappointing, although not terribly surprising. Only recently have lawmakers begun to publicly mention tort reform as an option. Trial lawyers have been tremendously successful in their lobbying campaigns, striking fear of hefty political retribution in lawmakers, many of whom have trained and practiced as trial lawyers themselves. According to the Federal Election Commission<sup>1</sup>, the American Association for Justice (formerly the Association of Trial Lawyers of America) was one of the top 10 contributors to candidates in the 2008 election cycle, out of over 4,000 political action committees. At a recent town hall meeting in Reston, Virginia, Howard Dean noted the following:

*"The reason why tort reform is not in the [health care] bill is because the people who wrote it did not want to take on the trial lawyers ... and that is the plain and simple truth."<sup>2</sup>*

Placing reasonable limits on non-economic damages is an important step in the move towards true healthcare reform. Keep in mind that these tort awards are above and beyond reimbursement for medical costs, lost wages and other direct economic damages; a fact that often gets obscured in public discussion of tort reform. States that have placed limits on non-economic damages have been able to stabilize and even reduce liability premiums, which has helped to reverse the efflux of physicians from their borders. Unfortunately, only a minority of states have been able to enact legislation which mandates this sort of cap. Federally-placed maximum awards would help to even the playing field for states in their ability to recruit and retain adequate numbers of physicians, particularly in higher-risk specialties.

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#### AAEM Mission Statement

The American Academy of Emergency Medicine (AAEM) is the specialty society of emergency medicine. AAEM is a democratic organization committed to the following principles:

1. Every individual should have unencumbered access to quality emergency care provided by a specialist in emergency medicine.
2. The practice of emergency medicine is best conducted by a specialist in emergency medicine.
3. A specialist in emergency medicine is a physician who has achieved, through personal dedication and sacrifice, certification by either the American Board of Emergency Medicine (ABEM) or the American Osteopathic Board of Emergency Medicine (AOBEM).
4. The personal and professional welfare of the individual specialist in emergency medicine is a primary concern to the AAEM.
5. The Academy supports fair and equitable practice environments necessary to allow the specialist in emergency medicine to deliver the highest quality of patient care. Such an environment includes provisions for due process and the absence of restrictive covenants.
6. The Academy supports residency programs and graduate medical education, which are essential to the continued enrichment of emergency medicine, and to ensure a high quality of care for the patients.
7. The Academy is committed to providing affordable high quality continuing medical education in emergency medicine for its members.
8. The Academy supports the establishment and recognition of emergency medicine internationally as an independent specialty and is committed to its role in the advancement of emergency medicine worldwide.

#### Membership Information

Fellow and Full Voting Member: \$365 (Must be ABEM or AOBEM certified in EM or Pediatric EM)

\*Associate Member: \$250

Emeritus Member: \$250 (Must be 65 years old and a full voting member in good standing for 3 years)

Affiliate Member: \$365 (Non-voting status; must have been, but are no longer ABEM or AOBEM certified in EM)

International Member: \$125 (Non-voting status)

AAEM/RSA Member: \$50 (voting in AAEM/RSA elections only)

Student Member: \$50 (voting in AAEM/RSA elections only)

\*Associate membership is limited to graduates of an ACGME or AOA approved Emergency Medicine Program.

Send check or money order to : AAEM, 555 East Wells Street,  
Suite 1100, Milwaukee, WI 53202

Tel: (800) 884-2236, Fax (414) 276-3349, Email: [info@aaem.org](mailto:info@aaem.org).

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Another strategy that deserves discussion on the national front involves placing limitations on attorney's fees in medical malpractice cases. Various versions of this idea, including both flat and graduated limits, have been proposed, all looking to reduce the incentive for trial lawyers to pursue "jackpot" awards and frivolous lawsuits. Currently, a trial lawyer might look to keep about one third of the total amount awarded to the plaintiff. Putting this in perspective, with a single tort award of \$10 million, a trial lawyer would earn more than an average emergency physician would earn in about 13 years! While attorneys deserve to receive compensation for their work, there must be a reasonable limit to the amount of their clients' awards that they commandeer.

Unlimited tort places a very heavy burden on the healthcare system. The AMA estimates that \$99 to \$179 billion is spent each year on defensive medicine.<sup>3</sup> The arguments in favor of tort reform are many and a full discussion is beyond the scope of this editorial. Readers are encouraged to educate themselves thoroughly on

this topic and contact lawmakers now, while the opportunity for change is present. With legislators looking desperately for options to help control costs, tort reform should be a high priority on their agendas. Political motivations, however, may keep tort reform out of major healthcare proposals for the near future. Clearly we need to continue our efforts, both individually and collectively, in educating patients, colleagues, and legislators about the need for tort reform.

1. "Summary Campaign Finance Data Files." *Federal Election Commission Home Page*. Web. 31 Aug. 2009. <<http://www.fec.gov/finance/disclosure/ftpsum.shtml>>.
2. "News Releases." *ATRA: The American Tort Reform Association*. Web. 31 Aug. 2009. <<http://www.atra.org/newsroom/releases.php?id=8405>>.
3. *Medical Liability Reform - NOW!* Publication. Chicago: American Medical Association, 2008. Available online at <<http://www.ama-assn.org/ama/pub/advocacy/current-topics-advocacy/practice-management/medical-liability-reform.shtml>>.

## AAEM 2010 Elections

*Nomination Deadline: November 16, 2009*

Nominations are currently being accepted for the positions of president, vice president, secretary-treasurer and three at-large directors on the AAEM board of directors. Any Academy member may nominate any full voting member for a seat on the board. Self-nominations are also encouraged. In addition, nominations are being sought for the Young Physicians Section (YPS) director position on the AAEM board. Candidates for the YPS director position must be YPS members to be eligible for election.

Elections for the AAEM board of directors will be held at AAEM's 16th Annual Scientific Assembly, February 15-17, 2010, in Las Vegas, NV. Although balloting arrangements will be made for those unable to attend the Assembly, all members are encouraged to hold their votes until the time of the meeting.

The Scientific Assembly will feature a Candidates Forum, allowing members to directly question the candidates before casting their ballots. Election results will be announced during the conference, and those elected will begin their terms at the conclusion of the Assembly.

To nominate yourself or another full voting member for a board position, please complete the nomination form at [www.aaem.org/elections/2010nominationform.pdf](http://www.aaem.org/elections/2010nominationform.pdf) and send the information listed below to the AAEM office before midnight CST, on November 16, 2009.

1. Name of nominee. Each nominee may have only three individuals as nominators/endorsers.
2. Name of nominee's medical school and year of graduation.
3. Board certification status of nominee, including name of board(s) and year completed.
4. Number of clinical hours worked in the ED each week by the nominee.
5. A candidate statement (written by the nominee; 500 word max.) listing recent AAEM contributions, accomplishments, activities or any other information detailing why the nominee should be elected to the board.
6. Any emergency medicine related business activity in which the nominee has a financial interest.
7. A copy of the nominee's CV.

Candidate statements will be featured in an upcoming issue of *Common Sense* and will be sent to each full voting and YPS member along with the ballot.

These nomination and election procedures are part of what sets AAEM apart from other professional medical associations. We believe the democratic principles that guide them are one of AAEM's greatest strengths and are an integral part of what makes us the organization of specialists in emergency medicine. In AAEM, any individual full voting member can be nominated and elected to the AAEM board of directors.

### *ABEM President Announcement:*

*AAEM congratulates Debra G. Perina, MD, on assuming the presidency of the American Board of Emergency Medicine (ABEM). Dr. Perina has served ABEM as a Director since 2003.*



AAEM President, Larry Weiss, MD FAAEM, speaks on "The Future of Emergency Medicine" at the National Medical Association's Annual Convention & Scientific Assembly on July 26, 2009.