

# Trial lawyers rap malpractice bills

The Michigan Trial Lawyers Association is criticizing a state House of Representatives committee report on liability insurance reforms, released last week.

MTLA praised the Democratic-controlled committee report as "a distinct step forward toward effective malpractice insurance reform" but blasted it for curbing "the rights of individuals" to collect damages.

"The House Committee has corrected several of the more obvious shortcomings of the Senate proposals," said Leonard Esquina, MTLA legislative counsel, "but several components stacked up as inadequate, ineffective or inoperable."

AMONG FEATURES which Esquina criticized were:

- The requirement that witnesses in medical malpractice cases be from the same specialty as the doctor being sued. The lawyer termed it the most unacceptable of the House provisions. "The conspiracy of silence" among doctors is well documented. This House proposal would make it virtually impossible to obtain a doctor who is capable of offering testimony in one of the ever-increasing number of medical specialties," said Esquina. The proposal was aimed at curbing non-resident, non-practicing doctors from selling their testimony to anyone filing a suit.

- The requirement for structured settlements for verdicts exceeding \$250,000. "Instead, all monies in excess of the base \$250,000 would be made available to the insurance company for its investment portfolio — a luscious plum indeed," said Esquina.

- The requirement that juries allocate precise degrees of responsibility to each wrongdoer in a malpractice case. This would make the jury's job extremely complex, according to Esquina, and might mean more litigation to identify the responsible parties' portion of the award. The proposal

## Lodge to be closed at night for repairs

Portions of the Lodge Freeway (US-10) between Eight Mile and Telegraph in Southfield will be closed at night for two weeks.

Hours of closings will be 10 p.m. to 5:30 a.m., according to the Oakland County Road Commission (OCRC). Different segments will be closed each night.

Traffic will be detoured to adjacent service drives. At no time will both southbound and northbound lanes be closed simultaneously.

"Closures are necessary to allow crews to work safely while patching deteriorated pavement," said John L. Grubba, OCRC managing director.

The road commission will be doing the patching under contract with the Michigan Department of Transportation.

was aimed at the tendency for plaintiffs to collect 90 percent of a settlement from an apparently rich defendant who may have been only 10 percent responsible.

- Exemption of certain governmental employees from lawsuits by virtue of governmental immunity, as proposed by the House Committee. This insulates certain workers while exposing others, said MTLA. "If carelessness occurs," said Esquina, "all guilty parties should be treated equally. My personal opinion is that no government employee is entitled to immunity for recklessness."

- The recommendation that would preclude many minors from filing a malpractice lawsuit by requiring such action within two years of their last medical treatment or two years from the date of discovery. "If the parents cannot or do not sue in time, the child will never be able to recover damages under this rule," said Esquina.

REGARDING the House proposal on dram shops, the MTLA disagrees that only the last bar licensee should be liable.

"If we are to stop drunk driving, we should extend the dram shop restrictions to all responsible parties," said Esquina.

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