

RESOLUTION 101-10A

1  
2  
3 **Title: Pain and Suffering Caps Unconstitutional**  
4  
5 **Introduced by: Domenic R. Federico, MD for the Kent County Delegation**  
6  
7 **Original Author: Domenic R. Federico, MD**  
8  
9 **Referred to: Reference Committee B**  
10  
11 **House Action: Adopted as Amended**  
12

---

13  
14 **Whereas, caps on pain and suffering awards are probably the most**  
15 **significant component in any tort reform package, and**  
16

17 **Whereas, states that have passed these caps have demonstrated**  
18 **reductions in awards and the effects of the malpractice crisis have been seen in**  
19 **states without such caps, and**  
20

21 **Whereas, there is an obvious relationship between rates paid for**  
22 **malpractice insurance in states with and without caps on pain and suffering**  
23 **awards, and**  
24

25 **Whereas, caps on pain and suffering totally change the dynamics of**  
26 **pretrial negotiations, and**  
27

28 **Whereas, caps on pain and suffering allow more cases to go to trial, and**  
29

30 **Whereas, the Georgia Supreme Court has just declared caps on pain and**  
31 **suffering unconstitutional in that state, and**  
32

33 **Whereas, it is safe to assume that trial lawyers in every state are salivating**  
34 **at the prospects in their own states, and**  
35

36 **Whereas, the AMA has taken huge risks with the very survival of the AMA**  
37 **in order to support President Obama and his health care reform package, and**  
38

39 **Whereas, the AMA should have, at least, gained access to him to be able**  
40 **to instruct him about our concerns for important issues, and**  
41

42 **Whereas, when he spoke to the AMA he expressed understanding of the**  
43 **importance of tort reform, and**  
44

45 **Whereas, he promised investigation of the crisis, and**  
46

47 **Whereas, any evidence based study will show the benefits of the caps on**  
48 **pain and suffering while preserving the patient's right to sue and ability to have**  
49 **access to physicians; therefore be it**

50           **RESOLVED: That MSMS continue the vigorous campaign within the state**  
51 **to pre-empt the Michigan trial lawyers' predictable assault on our tort reform**  
52 **package; and be it further**

53

54           **RESOLVED: That the Michigan Delegation to the AMA ask the AMA to**  
55 **urge the AMA Board of Trustees to engage the Obama administration**  
56 **immediately to educate them about the perils of making caps on pain and**  
57 **suffering unconstitutional and the inability of the physicians of America to offer**  
58 **access to patients for their health care if they cannot afford to stay in business.**

59

60

61

---

**WAYS AND MEANS COMMITTEE FISCAL NOTE: NONE**