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July 21, 2017

The Honorable Michael J. Stack
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200 Main Capitol Building
Harrisburg, Pennsylvania 17120

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The Honorable Anthony J. Williams
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The Honorable Wayne D. Fontana
Minority Caucus Chair
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The Honorable Vincent Hughes
Minority Appropriations Chair
545 Main Capitol Building
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The Honorable Mike Turzai
House Speaker
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The Honorable Dave Reed
House Majority Leader
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The Honorable Bryan Cutler
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The Honorable Marcy Toepel
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The Honorable Donna Oberlander
House Majority Caucus Secretary
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The Honorable Stan Saylor
House Majority Appropriations Chair
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The Honorable Frank Dermody
House Democratic Leader
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The Honorable Michael K. Hanna
House Democratic Whip
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House Democratic Caucus Chair
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The Honorable Joseph Markosek
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Re: SB 446—Pennsylvania Professional Liability Joint Underwriting Association

Dear President Stack and Other Legislative Officials:

I am writing on behalf of the Pennsylvania Medical Society (PAMED) to express our serious concerns and disappointment with the state's repeated attempts to take \$200 million from the Pennsylvania Professional Liability Joint Underwriting Association (JUA) to balance the state's budget.

Under the Medical Care Availability and Reduction of Error (MCARE) Act, the legislature recognized that to maintain a comprehensive, high-quality health care system, medical professional liability insurance had to be available at an affordable and reasonable cost. The JUA was created to help achieve this goal by providing medical professional liability insurance to health care providers who are unable to obtain insurance from the private insurance market at comparable, affordable rates.

In 2016, as you are aware, the legislature directed the transfer of the JUA's funds under Act 85. The transfer was purported to be a loan to be paid back to the JUA over a five year period. The JUA refused to consent to the transfer and, instead, on May 18, 2017, opted to file a complaint in federal court.

On July 7, 2017, with the House Appropriation committee's approval of Senate Bill (SB) 446, the state signaled its intent, once again, to compel the JUA's funds by ordering the JUA to pay the State Treasurer what appears to be an additional \$200 million by September 1, 2017.

For several reasons, the state's actions seek to undermine the purpose of the JUA, are wholly inappropriate, and a disservice to its physicians, health care providers, and citizens.

First, the money the legislature seeks does not belong to the state and, therefore, the state is absolutely misdirected in its view that the JUA's funds can be used to help balance its budget. The JUA is funded, in small part, by applicant administrative fees and, in large part, by policy premiums and surcharges paid by policyholders—the very health care providers who ensure that your constituents have access to quality, affordable health care.

Second, the JUA's funds are not held in the state's treasury; the JUA holds its funds in privately owned bank accounts. Given this information, it is currently unclear how the state anticipates the ability to access or demand the transfer of JUA's funds.

And, third, by virtue of the premiums paid, the JUA has made a commitment to protect participating physicians and other health care providers from the liability associated with their chosen profession; this commitment should remain inviolable.

For these reason, we vehemently oppose any state action to take the JUA's funds as a "one time" non-recurring revenue source to help balance the state's 2017-18 state budget. The commonwealth's attempts to undermine this protection is detrimental to the participating providers and the health of the state. We hope that the state reconsiders its approach and seeks alternative mechanisms to address the state's budget shortfall.

Thank you,



Charles Cutler, MD, MACP

President