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February 28, 2017

U.S. House of Representatives  
Judiciary Committee  
Washington, DC 20515

Re: New Public Citizen Report Refuting False Arguments behind H.R. 1215: the "Protecting Access to Care Act of 2017"

Dear Chairman Goodlatte, Ranking Member Conyers, and Honorable Committee members,

Public Citizen is a national non-profit organization with more than 400,000 members and supporters. We represent consumer interests on a broad range of issues including patient safety and the rights of harmed individuals to hold corporate wrongdoers accountable in the court of law. We urge you to oppose H.R. 1215 (and the Managers' Amendment or any substantially similar version of the bill.)

An essential component of the American justice system is ensuring injured patients are fully compensated for their injuries. Capping non-economic damages-- as this bill does at \$250,000-- leaves families without recourse if they are faced with the horrific impacts of medical malpractice: a loved one neglected in a poorly-run nursing home, a newborn injured during delivery, a woman sexually assaulted by a doctor, or any other number of devastating harms the compensation for which would be limited by provisions H.R. 1215.

Other issues with the bill affecting state statutes of limitation, joint and several liability, and attorney fees would deter patients from pursuing legitimate claims. Studies have shown that this will push costs onto taxpayers when injured patients are required to use the assistance of government agencies for their care.

These bills would also take the unprecedented step of preempting a broad swath of state medical malpractice laws—an area in which federal law provides no remedy and has historically left to the states. Despite attempts to counter this restriction of states' rights, the bill would take power away from the legislatures, courts, and juries of the 50 states, replacing them with a one-size-fits law that fits defendants' interests far better than patients'.

This bill also lets doctors off the hook for negligent prescribing, as long as the drug or device was U.S. Food and Drug Administration (FDA) approved (or, if a device, approved or cleared). For example, suppose, the patient is allergic to a drug and her chart states that she is allergic, but the doctor carelessly prescribes the drug anyway. No matter the harm to the patient (even death,) there would be no suit against the doctor.

The arguments made in favor of this legislation are easily proven to be false. Public Citizen has today released a new report outlining the ways in which the real problem in the American health care industry is patient injury—not the high cost of medical malpractice payments. Our report, "The Medical Malpractice Scapegoat," shows that:

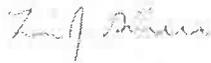
- The number of malpractice payments made on behalf of doctors in 2015 was the lowest since the government began tracking the information a quarter century ago;
- The cumulative value of such payments was lower in 2015 than at the end of the Clinton administration and lower than during any year in the George W. Bush administration; and
- Medical liability insurance premiums paid by doctors and hospitals have fallen for nine straight years and were lower in 2015 than in any year since 2003, the earliest year for which Public Citizen was able to obtain this information.

Our report also documents that over the past 20 years, avoidable errors kill anywhere from 44,000 to 400,000 people a year. In contrast, an average of fewer than 13,000 malpractice payments a year have been made on behalf of doctors over the past quarter century. Moreover, our report shows that accountability from the civil justice system has spurred quality improvements that have reduced litigation and saved lives. For instance, New York Presbyterian Hospital-Weill Cornell Medical Center undertook an obstetrics safety initiative and the hospital's obstetrics-related liability payments subsequently declined by 99 percent.

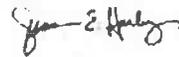
When American constituents are standing up at town halls and other venues across the nation and making their voices heard that they want more and better health care, why isn't this Committee focusing on fixing the problems that cause patient injuries instead of limiting the ability of harmed patients to be fully compensated in a court of law?

We urge you to oppose H.R. 1215.

Sincerely,



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## **WOMAN WHO LOST ARMS, LEGS AFTER SURGERY SUES SPECTRUM HEALTH, DOCTOR**

By John Agar

September 07, 2016

GRAND RAPIDS, MI - Pam Buschle, the East Grand Rapids woman who lost her arms and legs to amputation while battling septic shock, has filed a medical-malpractice lawsuit against her doctor, Spectrum Health Hospitals and Spectrum Health Primary Care Partners.

The lawsuit was filed Wednesday, Sept. 7, in Kent County Circuit Court.

"Women undergoing elective hysterectomy do not expect to wind up with their arms and legs amputated," Ann Arbor attorney Stephen Goethel said in a statement.

"Before surgery, Pam Buschle was a healthy, vibrant wife and mother. She led a fulfilling life as a public school social worker helping autistic and special needs children. As a quadrilateral amputee, Pam is now totally dependent on others just to live a life with astronomical needs that will never approach normal again."

In a statement, Spectrum Health said: "The care and safety of our patients is of the utmost importance to Spectrum Health. Spectrum Health is aware of the lawsuit filed by Mrs. Buschle. However, it is not our practice to comment on active litigation."

Buschle, who has been outfitted with myoelectric hands and prosthetic legs, has become an advocate for disabled people and an inspiration for many. She has worked hard to gain her independence.

She underwent what her attorney called routine gynecology surgery at Spectrum Health Butterworth Hospital in December 2013.

Six days later, her husband rushed her to the emergency room where doctors determined she suffered from sepsis, which can be deadly as the body reacts to infection, Goethel said.

To keep her vital organs from shutting down, doctors used medications called "vasopressors" to redirect blood from her extremities to her vital organs, which ultimately required amputation of her arms and legs, he said.

[http://www.mlive.com/news/grand-rapids/index.ssf/2016/09/woman\\_who\\_lost\\_arms\\_legs\\_after.html](http://www.mlive.com/news/grand-rapids/index.ssf/2016/09/woman_who_lost_arms_legs_after.html)

Goethel said that his client's poor post-operative care led to his client's condition.

He said that Buschle failed to improve after the operation and had impaired urinary function that she and her husband, Marty, reported to Christine Heisler, her doctor, for three days.

The couple were told that her problems were not life-threatening.

"What should have been an easily treated urinary tract infection instead progressed to uro-sepsis, a lethal condition where the infection enters and circulates in the bloodstream," Goethel said.

Buschle has pushed herself mentally and physically.

She has gone whitewater rafting in the Colorado River, water-skied on Reed's Lake and rides her recumbent bike. She tries to focus on what she can do.

She returned to Brookwood and Challenger elementary schools in Kentwood where she is a social worker.

"I want people out there who go through a really life-challenging or altering illness to know that there's hope," Buschle told The Grand Rapids Press and MLive recently.

The lawsuit says Buschle was discharged despite having symptoms that required intravenous medications. Two days later, she called her doctor's office to report that she was urinating very little.

Four days after surgery, her condition worsened. Her husband spoke to the doctor five times that weekend. The doctor told him to bring his wife to the office on the following Monday, the lawsuit said.

Heisler allegedly said she could not see Buschle earlier even though she was on call that weekend, the lawsuit said. The husband brought his wife to the emergency room on that Monday, "where she was found to be in profound septic shock," the lawsuit said.

"None of this would have occurred had the Defendants complied with the required standards of care," the lawsuit said.