

## Congressional committees move medical liability bill

similar to what RIMS has proposed for Rhode Island. In the wake of the abundant publicity surrounding the Michael Woods case and its resolution in 2009, the 2010 General Assembly session seemed ready at last to enact the Medical Society's bill. However, opponents still managed to kill RIMS' bill last year, as in previous years.

Other objections raised by opponents to the bill are that its reference to The Joint Commission impermissibly cedes state authority to an outside organization and that physicians could preempt adverse litigation

By a vote of 18 to 15, the Judiciary Committee of the U.S. House of Representatives approved HR-5, the HEALTH Act, (Help Efficient, Accessible, Low-cost Timely Health Care). The bill would institute a \$250,000 cap on non-economic damages in states without caps. State laws that provide for higher or lower damage caps on non-economic damages would not be preempted.

Committee deliberations became contentious when a minority of Republicans agreed with Democrats that medical liability is traditionally regulated by the states and that the federal government should not pass a bill that allows for the preemption of state law. The bill is currently before the House Committee on Energy & Commerce.

A Senate companion bill, S.218, has been referred to the Judiciary Committee. ❖



simply by proactively apologizing. The preemption argument is easily dismissed: the evidentiary privilege that RIMS' bill would establish is narrow and would exclude from admissibility only the doctor's benevolent gestures in the wake of an unanticipated outcome. Like any other viable case, a meritorious lawsuit against the doctor would still have to be built on substantial evidence.

A hearing in the Senate is expected to take place within the next few weeks. ❖



### Members of the House Judiciary Committee are as follows:

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