

At the January 15, 2004, meeting of the SJR 32 Subcommittee on Medical Liability Insurance, the members asked staff to prepare a survey and compile the results for future consideration. The survey forms were distributed to the Subcommittee's eight members on February 18, 2004 and the completed survey forms were collected through March 12, 2004. The results of the survey are shown in Table 1, below, and Table 2, on the following page. Of note, some members provided a response to all of the questions, others did not. Therefore, the totals of the "yes" and "no" columns do not always equal 8.

Table 1
RESULTS OF THE "LIST OF OPTIONS" SURVEY
CONDUCTED FEBRUARY 18 - MARCH 12, 2004
SJR 32 SUBCOMMITTEE ON MEDICAL LIABILITY INSURANCE
(OPTIONS WITH MORE THAN 50% IN FAVOR)

Option	Description	Percentage of Members Favoring Further Examination		
		Yes	No	
25	Wisconsin alternative solution	8	0	100%
7	Arbitration	7	1	88%
13	Ostensible Agency	7	1	88%
21 a	Arbitration: What can the stakeholders do?	6	1	86%
21 b	Pooling risks: What can the stakeholders do?	6	1	86%
21 c	Quality control: What can the stakeholders do?	5	1	83%
5	Advance payments	6	2	75%
6	Common law third party bad faith	6	2	75%
8	Captain of the ship doctrine	6	2	75%
16	(Limit the) discoverability of quality initiatives	6	2	75%
22	Medicaid reimbursement (increase)	6	2	75%
10	Informed consent	5	2	71%
19	Market/national forces	5	2	71%
20	What can the Legislature do?	5	2	71%
21 d	Fight (rather than settle) meritless cases	5	2	71%
3	Loss of chance doctrine	5	3	62%
4	Offset personal consumption expenses	5	3	62%
11	Strengthen Montana Medical Legal Panel	5	3	62%
23	Get claims settled faster	5	3	62%
41	State-Run, Stop-Gap Liability Coverage	5	3	62%
43	State Subsidies to Providers	5	3	62%
46	Insurance Reform: California's Proposition 103	5	3	62%
50	Institute experience rating	5	3	62%
51	Spread the risk or broadly	5	3	62%
24	Insurance reform	4	3	57%
48	Require risk prevention	4	3	57%

Table 2
RESULTS OF THE "LIST OF OPTIONS" SURVEY
CONDUCTED FEBRUARY 18 - MARCH 12, 2004
SJR 32 SUBCOMMITTEE ON MEDICAL LIABILITY INSURANCE
(OPTIONS WITH 50% OR LESS IN FAVOR)

Option No	Description	Yes	No	Percentage of Members Favoring Further Examination
9	Independent medical exam	4	4	50%
14	Hedonic loss (limit)	4	4	50%
15	Certificate of merit for expert witness	4	4	50%
17	Limit frivolous lawsuits	4	4	50%
31	Pretrial Screening: Title 27, chapter 6, MCA	4	4	50%
36	Variability of Jury Awards	4	4	50%
37	Alternative Dispute Resolution	4	4	50%
39	Selective No-fault Liability	4	4	50%
42	State Patient Compensation Programs	4	4	50%
44	Joint Underwriting Association	4	4	50%
40	Clinical Practice Guidelines	3	4	43%
2	Attorney fees (limit)	3	5	38%
12	Revise "good Samaritan" law	3	5	38%
29	Joint and Several Liability: 27-1-703, et seq., MCA	3	5	38%
34	Specialized "Medical Malpractice" Courts	3	5	38%
35	Jury Education	3	5	38%
47	Reform medical board governance	3	5	38%
18	Unless Legislature does something radical, options are limited	2	4	33%
26	Statute of Limitations: 27-2-205, MCA	2	5	29%
1	Mandatory collateral source	2	6	25%
38	Enterprise Liability	2	6	25%
45	State-Funded Indemnity for Specific Services	2	6	25%
28	Collateral Source Rule: 27-1-308, MCA	1	3	25%
49	Require periodic recertification of doctors, i.e. exam/audit	1	6	14%
30	Periodic Payments: 25-9-412, MCA	1	7	12%
32	Contributory or Comparative Negligence: 27-2-702, MCA	1	7	12%
27	Limits on noneconomic damages: 25-9-411, MCA	0	8	0%
33	Prejudgment interest: 27-1-210, MCA	0	8	0%

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