

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

WEDNESDAY, FEBRUARY 13, 2002

SESSION OF 2002

186TH OF THE GENERAL ASSEMBLY

No. 15

HOUSE OF REPRESENTATIVES

The House convened at 11 a.m., e.s.t.

THE SPEAKER (MATTHEW J. RYAN) PRESIDING

PRAYER

DR. KIRBY NELSON KELLER, Chaplain of the House of Representatives and president of Evangelical School of Theology, Myerstown, Pennsylvania, offered the following prayer:

Let us pray:

O God, our Heavenly Father, You have taught us in Holy Scripture that You love us with an everlasting love, and You have taught us that without love, whatever we do is worth nothing. In this Valentine season, we thank You, Father, for all those who have given us the gift of their love. It truly is a treasure. And we thank You also for all those who faithfully help us each day to do our work effectively – our support staff.

Lord, help us to understand that love really is patient and kind; it does not envy or boast; it is not proud or rude; it is not self-seeking nor is it easily angered, and it keeps no record of wrongs. But love always protects, always trusts, and always hopes. Teach us, Lord, how to love like You. This we pray with thanksgiving in the name of the one who first loved us. Amen.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by members and visitors.)

JOURNAL APPROVAL POSTPONED

The SPEAKER. Without objection, approval of the Journal of Tuesday, February 12, 2002, will be postponed until printed. The Chair hears no objection.

HOUSE BILLS INTRODUCED AND REFERRED

No. 2002 By Representatives DeWEESE, BLAUM, VEON, SOLOBAY, OLIVER, G. WRIGHT, BEBKO-JONES, YOUNGBLOOD, BELARDI, BELFANTI, BISHOP, BROWNE, BUNT, BUTKOVITZ, BUXTON, CALTAGIRONE, CAPPELLI, CAWLEY, COLAFELLA, COSTA, COY, CRUZ, CURRY, DALEY, DeLUCA, DONATUCCI, EACHUS, FRANKEL, FREEMAN, GEORGE, GRUCELA, HANNA, HARHAI,

HORSEY, JAMES, JOSEPHS, LaGROTTA, LAUGHLIN, LEDERER, LESCOVITZ, LEVDANSKY, MARKOSEK, McCALL, McGEEHAN, MELIO, MICHLOVIC, MUNDY, MYERS, PETRARCA, PETRONE, READSHAW, RIEGER, ROBERTS, ROBINSON, ROEBUCK, ROONEY, RUFFING, SANTONI, SCRIMENTI, SHANER, STABACK, STURLA, SURRA, TANGRETTI, THOMAS, TIGUE, TRAVAGLIO, TRICH, WALKO, WANSACZ, WASHINGTON, WATERS, WOJNAROSKI, YUDICHAK, PISTELLA, PRESTON and SAMUELSON

An Act amending the act of June 26, 2001 (P.L.755, No.77), known as the Tobacco Settlement Act, further defining "low-income adult"; further providing for adult basic coverage insurance program; and providing for special coverage for children of unemployed parents.

Referred to Committee on INSURANCE, February 13, 2002.

No. 2370 By Representatives HERMAN, CLARK, PALLONE, L. I. COHEN, STABACK, FEESE, HENNESSEY, LEWIS, BARRAR, BEBKO-JONES, BELFANTI, CAPPELLI, CASORIO, COY, CREIGHTON, DeWEESE, DiGIROLAMO, FLICK, FRANKEL, FREEMAN, GEORGE, GODSHALL, GRUCELA, HARHAI, HORSEY, KAISER, LAUGHLIN, LESCOVITZ, MACKERETH, McCALL, McILHATTAN, R. MILLER, S. MILLER, NAILOR, PHILLIPS, PIPPY, PISTELLA, SAMUELSON, SATHER, SAYLOR, SEMMEL, SHANER, STEELMAN, E. Z. TAYLOR, THOMAS, TIGUE, TRAVAGLIO, TRICH, WALKO, WANSACZ, WATSON, WOJNAROSKI, YOUNGBLOOD, G. WRIGHT and DALEY

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, making an exception to certain fees relating to criminal records.

Referred to Committee on JUDICIARY, February 13, 2002.

No. 2371 By Representatives SANTONI, CALTAGIRONE, STABACK, THOMAS, TRICH, COY, GEORGE, READSHAW, SHANER, MELIO, HERMAN, MICHLOVIC, STURLA, TRAVAGLIO, GRUCELA, FRANKEL, HARHAI, McGEEHAN, YOUNGBLOOD, DALEY, WANSACZ, STEELMAN, JOSEPHS, HORSEY, CURRY, BELFANTI, WASHINGTON, J. TAYLOR, COLAFELLA, G. WRIGHT and FREEMAN

An Act amending the act of August 24, 1951 (P.L.1304, No.315), known as the Local Health Administration Law, defining "public health emergency"; providing for public health emergency response, public health monitoring and public health assessment; and further providing for State grants to county departments of health and to certain municipalities.

Referred to Committee on HEALTH AND HUMAN SERVICES, February 13, 2002.

No. 2372 By Representatives LAWLESS, BARRAR, BASTIAN, BELFANTI, CAPPELLI, CREIGHTON, EGOLF, HARHAI, HERSHEY, McGEEHAN, PALLONE, READSHAW, ROBINSON, ROHRER, SATHER, SOLOBAY, STABACK, E. Z. TAYLOR, TIGUE, WANSACZ, WILT, WOJNAROSKI, G. WRIGHT, CLARK, DALEY, GEORGE, HENNESSEY, McCALL and McGILL

An Act amending the act of November 29, 1990 (P.L.585, No.148), known as the Confidentiality of HIV-Related Information Act, exempting prison inmates.

Referred to Committee on JUDICIARY, February 13, 2002.

SENATE BILL FOR CONCURRENCE

The clerk of the Senate, being introduced, presented the following bill for concurrence:

SB 1075, PN 1674

Referred to Committee on JUDICIARY, February 13, 2002.

SENATE MESSAGE

HOUSE AMENDMENTS CONCURRED IN BY SENATE

The clerk of the Senate, being introduced, informed that the Senate has concurred in the amendments made by the House of Representatives to the Senate amendments to **HB 1758, PN 3240**.

SENATE MESSAGE

HOUSE RESOLUTION CONCURRED IN BY SENATE

The clerk of the Senate, being introduced, informed that the Senate has concurred in **HR 416, PN 3238**.

SENATE MESSAGE

HOUSE AMENDMENTS CONCURRED IN BY SENATE

The clerk of the Senate, being introduced, informed that the Senate has concurred in the amendments made by the House of Representatives to **SB 1169, PN 1714**.

SENATE MESSAGE

AMENDED HOUSE BILLS RETURNED FOR CONCURRENCE AND REFERRED TO COMMITTEE ON RULES

The clerk of the Senate, being introduced, returned **HB 1157, PN 3319**; and **HB 1802, PN 3320**, with information that the Senate has passed the same with amendment in which the concurrence of the House of Representatives is requested.

BILLS REMOVED FROM TABLE

The SPEAKER. The Chair recognizes the majority leader. Mr. PERZEL. Mr. Speaker, I move the following bills from the table:

HB 2190;
HB 2345; and
SB 1115.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILLS ON SECOND CONSIDERATION

The following bills, having been called up, were considered for the second time and agreed to, and ordered transcribed for third consideration:

HB 2190, PN 3315; HB 2345, PN 3257; and SB 1115, PN 1719.

BILLS RECOMMITTED

The SPEAKER. The Chair recognizes the gentleman from Lancaster, Mr. BARLEY.

Mr. BARLEY. Mr. Speaker, I move that the following bills be recommitted to the Appropriations Committee:

HB 2190;
HB 2345; and
SB 1115.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILLS SIGNED BY SPEAKER

Bills numbered and entitled as follows having been prepared for presentation to the Governor, and the same being correct, the titles were publicly read as follows:

HB 1758, PN 3240

An Act designating a bridge on SR 1038, over the Allegheny River in Armstrong County, as the Kittanning Citizens' Bridge; designating a bridge on SR 1017, over the north branch of Tunkhannock Creek in Wyoming County, as the Nicholson Veterans Memorial Bridge; redesignating the Apollo Bridge carrying SR 66 between Oklahoma Borough, Westmoreland County, and Apollo Borough, Armstrong County, as the Leonard C. Miller Bridge; and making a repeal.

SB 765, PN 855

An Act amending the act of February 1, 1966 (1965 P.L.1656, No.581), known as The Borough Code, further providing for the State Association of Boroughs and for regional borough associations.

SB 767, PN 857

An Act amending the act of May 1, 1933 (P.L.103, No.69), known as The Second Class Township Code, further providing for county associations and for the State Association of Township Supervisors.

SB 1169, PN 1714

An Act authorizing the Department of General Services, with the approval of the Governor, to grant and convey to Indiana County, certain lands situate in the Borough of Indiana, Indiana County; and to grant and convey to Collier Development Company, Inc., certain land situate in Collier Township, Allegheny County.

Whereupon, the Speaker, in the presence of the House, signed the same.

BILL REMOVED FROM TABLE

The SPEAKER. The Chair recognizes the majority leader.
Mr. PERZEL. Mr. Speaker, I move that HB 8 be taken from the table.

On the question,
Will the House agree to the motion?
Motion was agreed to.

BILL TABLED

The SPEAKER. The Chair recognizes the majority leader.
Mr. PERZEL. Mr. Speaker, I move that HB 8 be placed back upon the table.

On the question,
Will the House agree to the motion?
Motion was agreed to.

LEAVES OF ABSENCE

The SPEAKER. The Chair is advised that neither the majority nor minority whips have any requests for leaves.

MASTER ROLL CALL

The SPEAKER. The Chair is about to take today's master roll call. Members will proceed to vote.
The following roll call was recorded:

PRESENT—200

Adolph	Evans, D.	Maitland	Saylor
Allen	Evans, J.	Major	Schroder
Argall	Fairchild	Manderino	Schuler
Armstrong	Feese	Mann	Scrimenti
Baker, J.	Fichter	Markosek	Semmel
Baker, M.	Fleagle	Marsico	Shaner
Bard	Flick	Mayernik	Smith, B.
Barley	Forcier	McCall	Smith, S. H.
Barrar	Frankel	McGeehan	Solobay
Bastian	Freeman	McGill	Staback
Bebko-Jones	Gabig	McIlhattan	Stairs
Belardi	Gannon	McIlhinney	Steelman
Belfanti	Geist	McNaughton	Steil
Benninghoff	George	Melio	Stern
Birmelin	Godshall	Metcalfe	Stetler
Bishop	Gordner	Michlovic	Stevenson, R.
Blaum	Grucela	Micozzie	Stevenson, T.
Boyes	Gruitza	Miller, R.	Strittmatter
Browne	Habay	Miller, S.	Sturla
Bunt	Haluska	Mundy	Tangretti
Butkovitz	Hanna	Myers	Taylor, E. Z.
Buxton	Harhai	Nailor	Taylor, J.
Caltagirone	Harhart	Nickol	Thomas
Cappelli	Harper	O'Brien	Tigue
Casorio	Hasay	Oliver	Travaglio
Cawley	Hennessey	Pallone	Trello
Civera	Herman	Perzel	Trich
Clark	Hershey	Petrarca	Tulli
Clymer	Hess	Petrone	Turzai
Cohen, L. I.	Horsley	Phillips	Vance
Cohen, M.	Hutchinson	Pickett	Veon
Colafella	Jadlowiec	Pippy	Vitali
Coleman	James	Pistella	Walko
Cornell	Josephs	Preston	Wansacz
Corrigan	Kaiser	Raymond	Washington
Costa	Keller	Readshaw	Waters
Coy	Kenney	Reinard	Watson
Creighton	Kirkland	Rieger	Williams, J.
Cruz	Krebs	Roberts	Wilt
Curry	LaGrotta	Robinson	Wojnaroski
Dailey	Laughlin	Roebuck	Wright, G.
Daley	Lawless	Rohrer	Wright, M.
Dally	Lederer	Rooney	Yewcic
DeLuca	Leh	Ross	Youngblood
Dermody	Lescovitz	Rubley	Yudichak
DeWeese	Levdansky	Ruffing	Zimmerman
DiGirolamo	Lewis	Sainato	Zug
Diven	Lucyk	Samuelson	
Donatucci	Lynch	Santoni	
Eachus	Mackereth	Sather	Ryan, Speaker
Egolf	Maher		

ADDITIONS—0

NOT VOTING—0

EXCUSED—1

Surra

LEAVES ADDED—1

Stairs

SUPPLEMENTAL CALENDAR A

RESOLUTION PURSUANT TO RULE 35

Mrs. TAYLOR called up **HR 430, PN 3321**, entitled:

A Resolution recognizing March 2002 as “Women’s History Month” and March 8, 2002, as “International Women’s Day” in Pennsylvania.

On the question,
Will the House adopt the resolution?

The following roll call was recorded:

YEAS—200

Adolph	Evans, D.	Maitland	Saylor
Allen	Evans, J.	Major	Schroder
Argall	Fairchild	Manderino	Schuler
Armstrong	Feese	Mann	Scrimenti
Baker, J.	Fichter	Markosek	Semmel
Baker, M.	Fleagle	Marsico	Shaner
Bard	Flick	Mayernik	Smith, B.
Barley	Forcier	McCall	Smith, S. H.
Barrar	Frankel	McGeehan	Solobay
Bastian	Freeman	McGill	Staback
Bebko-Jones	Gabig	McIlhattan	Stairs
Belardi	Gannon	McIlhinney	Steelman
Belfanti	Geist	McNaughton	Steil
Benninghoff	George	Melio	Stern
Birmelin	Godshall	Metcalfe	Stetler
Bishop	Gordner	Michlovic	Stevenson, R.
Blaum	Grucela	Micozzie	Stevenson, T.
Boyce	Gruitza	Miller, R.	Strittmatter
Browne	Habay	Miller, S.	Sturla
Bunt	Haluska	Mundy	Tangretti
Butkovitz	Hanna	Myers	Taylor, E. Z.
Buxton	Harhai	Nailor	Taylor, J.
Caltagirone	Harhart	Nickol	Thomas
Cappelli	Harper	O’Brien	Tigue
Casorio	Hasay	Oliver	Travaglio
Cawley	Hennessey	Pallone	Trello
Civera	Herman	Perzel	Trich
Clark	Hershey	Petrarca	Tulli
Clymer	Hess	Petrone	Turzai
Cohen, L. I.	Horsey	Phillips	Vance
Cohen, M.	Hutchinson	Pickett	Veon
Colafella	Jadlowiec	Pippy	Vitali
Coleman	James	Pistella	Walko
Cornell	Josephs	Preston	Wansacz
Corrigan	Kaiser	Raymond	Washington
Costa	Keller	Readshaw	Waters
Coy	Kenney	Reinard	Watson
Creighton	Kirkland	Rieger	Williams, J.
Cruz	Krebs	Roberts	Wilt
Curry	LaGrotta	Robinson	Wojnaroski
Dailey	Laughlin	Roebuck	Wright, G.
Daley	Lawless	Rohrer	Wright, M.
Dally	Lederer	Rooney	Yewic
DeLuca	Leh	Ross	Youngblood
Dermody	Lescovitz	Rubley	Yudichak
DeWeese	Levdansky	Ruffing	Zimmerman
DiGirolamo	Lewis	Sainato	Zug
Diven	Lucyk	Samuelson	
Donatucci	Lynch	Santoni	
Eachus	Mackereth	Sather	Ryan,
Egolf	Maher		Speaker

NAYS—0

NOT VOTING—0

EXCUSED—1

Surra

The majority having voted in the affirmative, the question was determined in the affirmative and the resolution was adopted.

The SPEAKER. The gentleman, Mr. Cohen.
Mr. Lescovitz, do you care to announce—

REPUBLICAN CAUCUS

The SPEAKER. Let me announce my understanding of the Republican plan at this time.

The House will be called into recess. The Republicans will caucus at noon. It is expected that we can come back I am going to say 1:30, with the expectation that that will be extended. I am not going to kid you that I think we are going to get out of here with an hour-and-a-half caucus. So when I declare the recess, I will declare it until 1:30, but I think you can reasonably expect that that will be extended.

DEMOCRATIC CAUCUS

The SPEAKER. The Democrats, please.
Mr. LESCOVITZ. Thank you, Mr. Speaker.

The Democrats will also caucus at 12 noon.

The SPEAKER. All right.

Now, do you agree to be called back at 1:30 unless extended?

Mr. LESCOVITZ. Yes, Mr. Speaker. That is fine with us.

The SPEAKER. All right.

RECESS

The SPEAKER. Are there any announcements from the floor?

All right. Hearing none, this House will stand in recess until 1:30, unless extended by the Chair or called back sooner by the Chair, which I do not think is a realistic possibility.

RECESS EXTENDED

The time of recess was extended until 2:30 p.m.; further extended until 3 p.m.; further extended until 4 p.m.; further extended until 4:30 p.m.

AFTER RECESS

The time of recess having expired, the House was called to order.

RULES COMMITTEE MEETING

The SPEAKER. The Chair recognizes the majority leader, who calls for an immediate meeting of the Rules Committee.

COMMUNICATION FROM GOVERNOR**APPROVAL OF HOUSE BILL**

The Speaker laid before the House a communication in writing from the office of His Excellency, the Governor of the Commonwealth, advising that the following House bill had been approved and signed by the Governor:

HB 1813.

The SPEAKER. For the benefit of the members or their staff listening to the proceedings right now, it is the understanding of the Chair that the Democrat caucus is going to be recalled shortly. So I think you should stay in your offices for a couple of minutes. Stay tuned in. I will try and update you as warranted.

COMMUNICATION FROM OFFICE OF THE TREASURER

The SPEAKER. The Chair acknowledges receipt of the eighth annual report of the Tuition Account Programs submitted by the Office of the Treasurer.

(Copy of communication is on file with the Journal clerk.)

JOURNAL APPROVED

The SPEAKER. The Chair notes that the Journal for Thursday, January 3, 2002, is in print. On the question of approval of the Journal as printed, the Journal will stand approved, without objection.

LEAVE OF ABSENCE

The SPEAKER. The Chair recognizes the majority whip, who asks that the gentleman from Westmoreland, Mr. STAIRS, be placed on leave. Without objection, the leave will be granted. The Chair hears no objection.

BILLS ON CONCURRENCE REPORTED FROM COMMITTEE**HB 1157, PN 3319**

By Rep. PERZEL

An Act amending the act of May 25, 1945 (P.L.1050, No.394), known as the Local Tax Collection Law, further providing for the definition of "tax collector" or "elected tax collector"; authorizing agreements for joint tax collection districts; and further providing for delinquent tax collectors.

RULES.

HB 1802, PN 3326 (Amended)

By Rep. PERZEL

An Act reforming the law on medical professional liability; providing for patient safety and reporting; establishing the Patient Safety Authority and the Patient Safety Trust Fund; abrogating regulations; providing for medical professional liability informed consent, damages, expert qualifications, limitations of actions and medical records; establishing the Interbranch Commission on Venue; providing for medical professional liability insurance; establishing the Medical Care Availability and Reduction of Error Fund; providing for medical professional liability claims; establishing the Joint Underwriting Association; regulating medical professional liability insurance; providing for medical licensure regulation; providing for tort reform; providing for administration; imposing penalties; and making repeals.

RULES.

CALENDAR**BILL ON THIRD CONSIDERATION**

The House proceeded to third consideration of **HB 326, PN 3291**, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, prohibiting certain pointing of laser beams.

On the question,
Will the House agree to the bill on third consideration?
Bill was agreed to.

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

(The bill analysis was read.)

On the question recurring,
Shall the bill pass finally?

The SPEAKER. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—199

Adolph	Evans, D.	Maher	Sather
Allen	Evans, J.	Maitland	Saylor
Argall	Fairchild	Major	Schroder
Armstrong	Feese	Manderino	Schuler
Baker, J.	Fichter	Mann	Scrimenti
Baker, M.	Fleagle	Markosek	Semmel
Bard	Flick	Marsico	Shaner
Barley	Forcier	Mayernik	Smith, B.
Barrar	Frankel	McCall	Smith, S. H.
Bastian	Freeman	McGeehan	Solobay
Bebko-Jones	Gabig	McGill	Staback
Belardi	Gannon	McIlhattan	Steelman
Belfanti	Geist	McIlhinney	Steil
Benninghoff	George	McNaughton	Stern
Birmelin	Godshall	Melio	Stetler
Bishop	Gordner	Metcalfe	Stevenson, R.
Blaum	Grucela	Michlovic	Stevenson, T.
Boyes	Gruitza	Micozzie	Strittmatter
Browne	Habay	Miller, R.	Sturla
Bunt	Haluska	Miller, S.	Tangretti
Butkovitz	Hanna	Mundy	Taylor, E. Z.

Buxton	Harhai	Myers	Taylor, J.
Caltagirone	Harhart	Nailor	Thomas
Cappelli	Harper	Nickol	Tigue
Casorio	Hasay	O'Brien	Travaglio
Cawley	Hennessey	Oliver	Trello
Civera	Herman	Pallone	Trich
Clark	Hershey	Perzel	Tulli
Clymer	Hess	Petrarca	Turzai
Cohen, L. I.	Horsey	Petrone	Vance
Cohen, M.	Hutchinson	Phillips	Veon
Colafella	Jadlowiec	Pickett	Vitali
Coleman	James	Pippy	Walko
Cornell	Josephs	Pistella	Wansacz
Corrigan	Kaiser	Preston	Washington
Costa	Keller	Raymond	Waters
Coy	Kenney	Readshaw	Watson
Creighton	Kirkland	Reinard	Williams, J.
Cruz	Krebs	Rieger	Wilt
Curry	LaGrotta	Roberts	Wojnaroski
Dailey	Laughlin	Robinson	Wright, G.
Daley	Lawless	Roebuck	Wright, M.
Dally	Lederer	Rohrer	Yewcic
DeLuca	Leh	Rooney	Youngblood
Dermody	Lescovitz	Ross	Yudichak
DeWeese	Levdansky	Rubley	Zimmerman
DiGirolamo	Lewis	Ruffing	Zug
Diven	Lucyk	Sainato	
Donatucci	Lynch	Samuelson	Ryan,
Eachus	Mackereth	Santoni	Speaker
Egolf			

NAYS—0

NOT VOTING—0

EXCUSED—2

Stairs Surra

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

The SPEAKER. Mr. Vitali, for what purpose do you rise?

Mr. VITALI. Mr. Speaker, just to note that an announcement was made in our caucus that we would be back at 5:45. So I was quite surprised when I was in my office a couple of minutes ago to hear votes being taken, but I think some of our members may be under the misimpression that we should not be up here yet. I am not sure exactly what we voted on, but I know a lot of our members may have been caught off guard by those votes.

The SPEAKER. Well, it is 16 minutes to 6, so I am a minute early. I will wait a minute before I take anything else.

Mr. VITALI. Could you let us know what we voted on already? That might be helpful.

The SPEAKER. Mr. Vitali, you are recorded in the affirmative on HB 326.

Mr. VITALI. Okay.

The SPEAKER. It is on the marked calendar.

Mr. VITALI. Is that the laser pointer thing?

The SPEAKER. I am sorry?

Mr. VITALI. I do not have any problems with the laser pointer vote.

The SPEAKER. Well, that is good, because you voted the right way.

Mr. VITALI. Great. I appreciate your pointing that out, Mr. Speaker.

The SPEAKER. I am sure you are.

BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 66, PN 3289**, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for the grading of theft offenses.

On the question,
Will the House agree to the bill on third consideration?

The SPEAKER. Mr. Vitali.

Mr. VITALI. I was rising to interrogate the appropriate person.

The SPEAKER. Will the gentleman yield. I will come back and recognize you on that.

On the question recurring,
Will the House agree to the bill on third consideration?

Mr. MAITLAND offered the following amendment No. **A0583**:

Amend Title, page 1, line 3, by removing the period after "offenses" and inserting

, for theft of services, for retail theft, for library theft and for theft from motor vehicle.

Amend Sec. 1, page 1, line 6, by inserting after "3903(a.1)" and (b)

Amend Sec. 1, page 1, line 7, by striking out "is amended" and inserting

are amended and the section is amended by adding a subsection

Amend Sec. 1 (Sec. 3903), page 1, line 13, by inserting after "OFFENSE"

under this chapter.

Amend Bill, page 2, line 3, by striking out all of said line and inserting

(b) Other grades.—Theft not within subsection (a) or (a.1) of this section, constitutes a [misdemeanor of the first degree, except that if the property was not taken from the person or by threat, or in breach of fiduciary obligation, and:

(1) the amount involved was \$50 or more but less than \$200 the offense constitutes a misdemeanor of the second degree; or

(2) the amount involved was less than \$50 the offense constitutes a misdemeanor of the third degree.];

(1) Summary offense when the offense is a first offense and the amount involved is less than \$150.

(2) Misdemeanor of the second degree when the offense is a second offense and the amount involved is less than \$150.

(3) Misdemeanor of the first degree when the amount involved is \$150 or more.

* * *

(c.1) Fingerprinting.—Prior to the commencement of trial or entry of plea of a defendant 16 years of age or older accused of a summary offense under this chapter, the issuing authority shall order the defendant to submit within five days of such order for fingerprinting by the

municipal police of the jurisdiction in which the offense allegedly was committed or the Pennsylvania State Police. Fingerprints so obtained shall be forwarded immediately to the Pennsylvania State Police for determination as to whether or not the defendant previously has been convicted of an offense under this chapter. The results of such determination shall be forwarded to the police department obtaining the fingerprints if such department is the prosecutor, or to the issuing authority if the prosecutor is other than a police officer. The issuing authority shall not proceed with the trial or plea in summary cases until in receipt of the determination made by the Pennsylvania State Police. The district justice shall use the information obtained solely for the purpose of grading the offense under this chapter.

Section 2. Sections 3926(c)(1) and (2), 3929(b)(1) and (g), 3929.1(b)(1) and (h) and 3934(b) of Title 18 are amended to read:
 § 3926. Theft of services.

(c) Grading.—

[(1) An offense under this section constitutes a summary offense when the value of the services obtained or diverted is less than \$50.]

(2) [When the value of the services obtained or diverted is \$50 or more, the grading of the offense] An offense under this section shall be graded as established in section 3903 (relating to grading of theft offenses).

§ 3929. Retail theft.

(b) Grading.—

(1) [Retail theft constitutes a:

(i) Summary offense when the offense is a first offense and the value of the merchandise is less than \$150.

(ii) Misdemeanor of the second degree when the offense is a second offense and the value of the merchandise is less than \$150.

(iii) Misdemeanor of the first degree when the offense is a first or second offense and the value of the merchandise is \$150 or more.

(iv) Felony of the third degree when the offense is a third or subsequent offense, regardless of the value of the merchandise.

(v) Felony of the third degree when the amount involved exceeds \$2,000 or if the merchandise involved is a firearm or a motor vehicle.] An offense under this section shall be graded as established in section 3903 (relating to grading of theft offenses).

[(g) Fingerprinting.—Prior to the commencement of trial or entry of plea of a defendant 16 years of age or older accused of the summary offense of retail theft, the issuing authority shall order the defendant to submit within five days of such order for fingerprinting by the municipal police of the jurisdiction in which the offense allegedly was committed or the State Police. Fingerprints so obtained shall be forwarded immediately to the Pennsylvania State Police for determination as to whether or not the defendant previously has been convicted of the offense of retail theft. The results of such determination shall be forwarded to the Police Department obtaining the fingerprints if such department is the prosecutor, or to the issuing authority if the prosecutor is other than a police officer. The issuing authority shall not proceed with the trial or plea in summary cases until in receipt of the determination made by the State Police. The district justice shall use the information obtained solely for the purpose of grading the offense pursuant to subsection (b).]

§ 3929.1. Library theft.

(b) Grading.—

(1) [Library theft constitutes a:

(i) Summary offense when the offense is a first offense and the value of the material is less than \$150.

(ii) Misdemeanor of the second degree when the offense is a second offense and the value of the material is less than \$150.

(iii) Misdemeanor of the first degree when the offense is a first or second offense and the value of the material is \$150 or more.

(iv) Felony of the third degree when the offense is a third or subsequent offense, regardless of the value of the material.] An offense under this section shall be graded as established in section 3903 (relating to grading of theft offenses).

[(h) Fingerprinting.—Upon conviction the issuing authority shall order the defendant to submit within five days of such order for fingerprinting by the municipal police of the jurisdiction in which the offense allegedly was committed or the State Police.]

§ 3934. Theft from a motor vehicle.

(b) Grading.—

[(1) An offense under this section is:

(i) a misdemeanor of the third degree if the amount involved was less than \$50; or

(ii) a misdemeanor of the second degree if the amount involved was \$50 or more but less than \$200; or

(iii) a misdemeanor of the first degree if the amount involved was greater than \$200.

(2) When the offense is a third or subsequent offense within a five-year period, regardless of the amount involved and regardless of the grading of the prior offenses, an offense under this section is a felony of the third degree.] An offense under this section shall be graded as established in section 3903 (relating to grading of theft offenses).

Amend Sec. 2, page 2, line 4, by striking out “2” and inserting
 3

On the question,

Will the House agree to the amendment?

The SPEAKER. Mr. Vitali, do you have an interest in this amendment or final passage? Very good; final passage.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—199

Adolph	Evans, D.	Maher	Sather
Allen	Evans, J.	Maitland	Saylor
Argall	Fairchild	Major	Schroder
Armstrong	Feese	Manderino	Schuler
Baker, J.	Fichter	Mann	Scrimenti
Baker, M.	Fleagle	Markosek	Semmel
Bard	Flick	Marsico	Shaner
Barley	Forcier	Mayernik	Smith, B.
Barrar	Frankel	McCall	Smith, S. H.
Bastian	Freeman	McGeehan	Solobay
Bebko-Jones	Gabig	McGill	Staback
Belardi	Gannon	McIlhattan	Steelman
Belfanti	Geist	McIlhinney	Steil
Benninghoff	George	McNaughton	Stern
Birmelin	Godshall	Melio	Stetler
Bishop	Gordner	Metcalfe	Stevenson, R.
Blaum	Grucela	Michlovic	Stevenson, T.

Boyes	Gruitza	Micozzie	Strittmatter
Browne	Habay	Miller, R.	Sturla
Bunt	Haluska	Miller, S.	Tangretti
Butkovitz	Hanna	Mundy	Taylor, E. Z.
Buxton	Harhai	Myers	Taylor, J.
Caltagirone	Harhart	Nailor	Thomas
Cappelli	Harper	Nickol	Tigue
Casorio	Hasay	O'Brien	Travaglio
Cawley	Hennessey	Oliver	Trello
Civera	Herman	Pallone	Trich
Clark	Hershey	Perzel	Tulli
Clymer	Hess	Petrarca	Turzai
Cohen, L. I.	Horsey	Petrone	Vance
Cohen, M.	Hutchinson	Phillips	Veon
Colafella	Jadlowiec	Pickett	Vitali
Coleman	James	Pippy	Walko
Cornell	Josephs	Pistella	Wansacz
Corrigan	Kaiser	Preston	Washington
Costa	Keller	Raymond	Waters
Coy	Kenney	Readshaw	Watson
Creighton	Kirkland	Reinard	Williams, J.
Cruz	Krebs	Rieger	Wilt
Curry	LaGrotta	Roberts	Wojnaroski
Dailey	Laughlin	Robinson	Wright, G.
Daley	Lawless	Roebuck	Wright, M.
Dally	Lederer	Rohrer	Yewcic
DeLuca	Leh	Rooney	Youngblood
Dermody	Lescovitz	Ross	Yudichak
DeWeese	Levdansky	Rubley	Zimmerman
DiGirolamo	Lewis	Ruffing	Zug
Diven	Lucyk	Sainato	
Donatucci	Lynch	Samuelson	Ryan,
Eachus	Mackereth	Santoni	Speaker
Egolf			

NAYS—0

NOT VOTING—0

EXCUSED—2

Stairs Surra

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question,
Will the House agree to the bill on third consideration as amended?
Bill as amended was agreed to.

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.
The question is, shall the bill pass finally?

(The bill analysis was read.)

The SPEAKER. The Chair at this time recognizes the gentleman from Delaware, Mr. Vitali. Will the gentleman yield.
Mr. Vitali has the floor. May I have the attention of the House, please.
Mr. Vitali.
Mr. VITALI. Thank you, Mr. Speaker.
I realize that the maker of the bill, Miss Orie, is no longer in the House. Is there anyone else who might stand for interrogation on this bill?
The SPEAKER. I do not see any volunteers, Mr. Vitali.

Mr. VITALI. Maybe the chairman of the Judiciary Committee perhaps?

The SPEAKER. He is not on the floor at the moment.

Mr. VITALI. Okay; okay.

I can express my concerns perhaps, and I have a couple of concerns with this bill. I am assuming that the basis for the bill is to reduce theft and squelch repeat offenders, because what it does, as I read it, is to make it a felony of the third degree for a third theft offense regardless of the amount involved, and I do not see any time limits. A felony of the third degree is punishable by up to 7 years in jail, 7 years in jail and a \$15,000 fine. I envision a situation where perhaps a person earlier in their life might commit two theft offenses and then 10 years later might—

The SPEAKER. Will the gentleman yield for a moment.

Please. There is entirely too much noise on the floor. Sergeants at Arms, break up the various conferences in your vicinity.

I apologize, Mr. Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

So the concern is, you know, someone steals a slice of pizza or a bag of cookies or something of a de minimis value, and as this statute reads, would be subject to 7 years in jail and a third-degree felony. I am thinking that the language is just a little bit too broad here; that you could have a situation where value is not figured in, and 10 years ago you had some thefts and now 10 years later, without any other record, just steal something almost de minimis and be looking at a third-degree felony.

My thought is the intention of the bill is good, but I just think it creates a trap for the unwary and it might create something in our criminal justice system that does not do justice. So I will be voting “no” on this one.

The SPEAKER. The Chair thanks the gentleman.

Mr. Gabig of Cumberland County.

Mr. GABIG. Thank you, Mr. Speaker.

Just to respond to that. I am sorry I did not jump up soon enough for the interrogation, but the reason this bill, I think, came out of Judiciary, it makes it consistent with the other thefts. Retail theft, library thefts, right now in the code, if you have a third or subsequent, are felonies. So this just makes the general theft consistent with the sentencing or the grading provisions of the other thefts.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

On the question recurring,
Shall the bill pass finally?

The SPEAKER. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—186

Adolph	Egolf	Mackereth	Santoni
Allen	Evans, D.	Maher	Sather
Argall	Evans, J.	Maitland	Saylor
Armstrong	Fairchild	Major	Schroder
Baker, J.	Feese	Manderino	Schuler
Baker, M.	Fichter	Mann	Scrimenti
Bard	Fleagle	Markosek	Semmel
Barley	Flick	Marsico	Shaner
Barrar	Forcier	Mayernik	Smith, B.
Bastian	Frankel	McCall	Smith, S. H.

Bebko-Jones	Freeman	McGeehan	Staback
Belardi	Gabig	McGill	Steelman
Belfanti	Gannon	McIlhattan	Steil
Benninghoff	Geist	McIlhinney	Stern
Birmelin	George	McNaughton	Stetler
Bishop	Godshall	Melio	Stevenson, R.
Blaum	Gordner	Metcalfe	Stevenson, T.
Boyes	Grucela	Micozzie	Strittmatter
Browne	Gruitza	Miller, R.	Sturla
Bunt	Habay	Miller, S.	Tangretti
Butkovitz	Harhai	Mundy	Taylor, E. Z.
Buxton	Harhart	Myers	Taylor, J.
Caltagirone	Harper	Nailor	Thomas
Cappelli	Hasay	Nickol	Tigue
Casorio	Hennessey	O'Brien	Travaglio
Cawley	Herman	Oliver	Trello
Civera	Hershey	Perzel	Tulli
Clark	Hess	Petrarca	Turzai
Clymer	Horsey	Petrone	Vance
Cohen, L. I.	Hutchinson	Phillips	Veon
Colafella	Jadlowiec	Pickett	Walko
Coleman	James	Pippy	Wansacz
Cornell	Kaiser	Pistella	Washington
Corrigan	Keller	Preston	Waters
Costa	Kenney	Raymond	Watson
Coy	Kirkland	Readshaw	Wilt
Creighton	Krebs	Reinard	Wojnaroski
Cruz	LaGrotta	Rieger	Wright, G.
Dailey	Laughlin	Roberts	Wright, M.
Dally	Lawless	Roebuck	Yewcic
DeLuca	Lederer	Rohrer	Youngblood
Dermody	Leh	Rooney	Yudichak
DeWeese	Lescovitz	Ross	Zimmerman
DiGirolamo	Levdansky	Rubley	Zug
Diven	Lewis	Ruffing	
Donatucci	Lucyk	Sainato	Ryan,
Eachus	Lynch	Samuelson	Speaker

NAYS-13

Cohen, M.	Hanna	Pallone	Trich
Curry	Josephs	Robinson	Vitali
Daley	Michlovic	Solobay	Williams, J.
Haluska			

NOT VOTING-0

EXCUSED-2

Stairs	Surra
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The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

SUPPLEMENTAL CALENDAR B

**BILL ON CONCURRENCE
IN SENATE AMENDMENTS**

The House proceeded to consideration of concurrence in Senate amendments to **HB 1157, PN 3319**, entitled:

An Act amending the act of May 25, 1945 (P.L.1050, No.394), known as the Local Tax Collection Law, further providing for the definition of "tax collector" or "elected tax collector"; authorizing

agreements for joint tax collection districts; and further providing for delinquent tax collectors.

On the question,

Will the House concur in Senate amendments?

The SPEAKER. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS-199

Adolph	Evans, D.	Maher	Sather
Allen	Evans, J.	Maitland	Saylor
Argall	Fairchild	Major	Schroder
Armstrong	Feese	Manderino	Schuler
Baker, J.	Fichter	Mann	Scrimenti
Baker, M.	Fleagle	Markosek	Semmel
Bard	Flick	Marsico	Shaner
Barley	Forcier	Mayernik	Smith, B.
Barrar	Frankel	McCall	Smith, S. H.
Bastian	Freeman	McGeehan	Solobay
Bebko-Jones	Gabig	McGill	Staback
Belardi	Gannon	McIlhattan	Steelman
Belfanti	Geist	McIlhinney	Steil
Benninghoff	George	McNaughton	Stern
Birmelin	Godshall	Melio	Stetler
Bishop	Gordner	Metcalfe	Stevenson, R.
Blaum	Grucela	Michlovic	Stevenson, T.
Boyes	Gruitza	Micozzie	Strittmatter
Browne	Habay	Miller, R.	Sturla
Bunt	Haluska	Miller, S.	Tangretti
Butkovitz	Hanna	Mundy	Taylor, E. Z.
Buxton	Harhai	Myers	Taylor, J.
Caltagirone	Harhart	Nailor	Thomas
Cappelli	Harper	Nickol	Tigue
Casorio	Hasay	O'Brien	Travaglio
Cawley	Hennessey	Oliver	Trello
Civera	Herman	Pallone	Trich
Clark	Hershey	Perzel	Tulli
Clymer	Hess	Petrarca	Turzai
Cohen, L. I.	Horsey	Petrone	Vance
Cohen, M.	Hutchinson	Phillips	Veon
Colafella	Jadlowiec	Pickett	Vitali
Coleman	James	Pippy	Walko
Cornell	Josephs	Pistella	Wansacz
Corrigan	Kaiser	Preston	Washington
Costa	Keller	Raymond	Waters
Coy	Kenney	Readshaw	Watson
Creighton	Kirkland	Reinard	Williams, J.
Cruz	Krebs	Rieger	Wilt
Curry	LaGrotta	Roberts	Wojnaroski
Dailey	Laughlin	Robinson	Wright, G.
Daley	Lawless	Roebuck	Wright, M.
Dally	Lederer	Rohrer	Yewcic
DeLuca	Leh	Rooney	Youngblood
Dermody	Lescovitz	Ross	Yudichak
DeWeese	Levdansky	Rubley	Zimmerman
DiGirolamo	Lewis	Ruffing	Zug
Diven	Lucyk	Sainato	
Donatucci	Lynch	Samuelson	Ryan,
Eachus	Mackereth	Santoni	Speaker
Egolf			

NAYS-0

NOT VOTING-0

EXCUSED-2

Stairs Surra

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments were concurred in.

Ordered, That the clerk inform the Senate accordingly.

BILL SIGNED BY SPEAKER

Bill numbered and entitled as follows having been prepared for presentation to the Governor, and the same being correct, the title was publicly read as follows:

HB 1157, PN 3319

Whereupon, the Speaker, in the presence of the House, signed the same.

ANNOUNCEMENT BY SPEAKER

The SPEAKER. The House will please come to attention.

The staff have advised me that HB 1802 is not yet in print nor is it on our system and that there will be an approximate 20-minute to a half-hour delay until these materials are available for us.

So I am going to declare the House in recess until 6:30 to give the gurus of the computers and the Legislative Reference Bureau an opportunity to catch up with the printing and the distribution of these materials. I suggest you go to the caucus rooms or mill around, but do not stray.

RECESS

The SPEAKER. Without more, this House will stand in recess until 6:30 p.m.

RECESS EXTENDED

The time of recess was extended until 7 p.m.

AFTER RECESS

The time of recess having expired, the House was called to order.

THE SPEAKER PRO TEMPORE (BRETT FEESE) PRESIDING

The SPEAKER pro tempore. For the information of members, you need not report to the floor yet for approximately 20 minutes.

RULES COMMITTEE MEETING

The SPEAKER pro tempore. There will be a meeting of the Rules Committee at the majority leader's desk at 7:15 p.m.

BILL RECOMMITTED

The SPEAKER pro tempore. The Chair recognizes the

majority leader.

Mr. PERZEL. Mr. Speaker, I move that HB 1802 be recommitted to the Committee on Rules.

On the question,

Will the House agree to the motion?

Motion was agreed to.

The SPEAKER pro tempore. The House will stand at ease.

BILL ON CONCURRENCE REPORTED FROM COMMITTEE

HB 1802, PN 3328 (Amended)

By Rep. PERZEL

An Act reforming the law on medical professional liability; providing for patient safety and reporting; establishing the Patient Safety Authority and the Patient Safety Trust Fund; abrogating regulations; providing for medical professional liability informed consent, damages, expert qualifications, limitations of actions and medical records; establishing the Interbranch Commission on Venue; providing for medical professional liability insurance; establishing the Medical Care Availability and Reduction of Error Fund; providing for medical professional liability claims; establishing the Joint Underwriting Association; regulating medical professional liability insurance; providing for medical licensure regulation; providing for tort reform; providing for administration; imposing penalties; and making repeals.

RULES.

The SPEAKER pro tempore. The House will remain at ease. The House will come to order.

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. For what purpose does the gentleman, Mr. Yewcic, rise?

Mr. YEWIC. Mr. Speaker, just a parliamentary inquiry.

I just was concerned. What printer's number was reported from the Rules Committee? What bill?

The SPEAKER pro tempore. The new printer's number is 3328. Mr. YEWIC. Thank you, Mr. Speaker.

CALENDAR CONTINUED

BILL ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 411, PN 3293**, entitled:

An Act amending the act of July 31, 1968 (P.L. 805, No. 247), known as the Pennsylvania Municipalities Planning Code, further providing for purpose of act; defining "no-impact home-based business"; and further providing for ordinance provisions.

On the question,

Will the House agree to the bill on third consideration?

The SPEAKER pro tempore. It is the Chair's understanding that all amendments to this bill have been withdrawn.

On the question recurring,

Will the House agree to the bill on third consideration?
Bill was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage. The question is, shall the bill pass finally?

(The bill analysis was read.)

On the question recurring,
Shall the bill pass finally?

The SPEAKER pro tempore. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

(Members proceeded to vote.)

The SPEAKER pro tempore. Mr. Vitali, there is nothing in order at this time except the taking of the vote.

On the question recurring,
Shall the bill pass finally?

The following roll call was recorded:

YEAS—199

Adolph	Evans, D.	Maher	Sather
Allen	Evans, J.	Maitland	Saylor
Argall	Fairchild	Major	Schroder
Armstrong	Feese	Manderino	Schuler
Baker, J.	Fichter	Mann	Scrimenti
Baker, M.	Fleagle	Markosek	Semmel
Bard	Flick	Marsico	Shaner
Barley	Forcier	Mayernik	Smith, B.
Barrar	Frankel	McCall	Smith, S. H.
Bastian	Freeman	McGeehan	Solobay
Bebko-Jones	Gabig	McGill	Staback
Belardi	Gannon	McIlhattan	Steelman
Belfanti	Geist	McIlhinney	Steil
Benninghoff	George	McNaughton	Stern
Birmelin	Godshall	Melio	Stetler
Bishop	Gordner	Metcalfe	Stevenson, R.
Blaum	Grucela	Michlovic	Stevenson, T.
Boyes	Gruitza	Micozzie	Strittmatter
Browne	Habay	Miller, R.	Sturla
Bunt	Haluska	Miller, S.	Tangretti
Butkovitz	Hanna	Mundy	Taylor, E. Z.
Buxton	Harhai	Myers	Taylor, J.
Caltagirone	Harhart	Nailor	Thomas
Cappelli	Harper	Nickol	Tigue
Casorio	Hasay	O'Brien	Travaglio
Cawley	Hennessey	Oliver	Trello
Civera	Herman	Pallone	Trich
Clark	Hershey	Perzel	Tulli
Clymer	Hess	Petrarca	Turzai
Cohen, L. I.	Horsey	Petrone	Vance
Cohen, M.	Hutchinson	Phillips	Veon
Colafella	Jadlowiec	Pickett	Vitali
Coleman	James	Pippy	Walko
Cornell	Josephs	Pistella	Wansacz
Corrigan	Kaiser	Preston	Washington
Costa	Keller	Raymond	Waters
Coy	Kenney	Readshaw	Watson
Creighton	Kirkland	Reinard	Williams, J.
Cruz	Krebs	Rieger	Wilt
Curry	LaGrotta	Roberts	Wojnaroski
Dailey	Laughlin	Robinson	Wright, G.
Daley	Lawless	Roebuck	Wright, M.
Dally	Lederer	Rohrer	Yewic

DeLuca	Leh	Rooney	Youngblood
Dermody	Lescovitz	Ross	Yudichak
DeWeese	Levdansky	Rubleby	Zimmerman
DiGirolamo	Lewis	Ruffing	Zug
Diven	Lucyk	Sainato	
Donatucci	Lynch	Samuelson	Ryan,
Eachus	Mackereth	Santoni	Speaker
Egolf			

NAYS—0

NOT VOTING—0

EXCUSED—2

Stairs

Surra

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

The SPEAKER pro tempore. For what purpose does the gentleman, Mr. Adolph, rise?

Mr. ADOLPH. Thank you, Mr. Speaker.

I just wanted to thank Chairman Herman for the work he did on this bill along with subcommittee chairman Tim Hennessey for the work on HB 411.

The SPEAKER pro tempore. The Chair thanks the gentleman.

SUPPLEMENTAL CALENDAR D

BILL ON CONCURRENCE IN SENATE AMENDMENTS AS AMENDED

The House proceeded to consideration of concurrence in Senate amendments to the following **HB 1802, PN 3328**, as further amended by the House Rules Committee:

An Act reforming the law on medical professional liability; providing for patient safety and reporting; establishing the Patient Safety Authority and the Patient Safety Trust Fund; abrogating regulations; providing for medical professional liability informed consent, damages, expert qualifications, limitations of actions and medical records; establishing the Interbranch Commission on Venue; providing for medical professional liability insurance; establishing the Medical Care Availability and Reduction of Error Fund; providing for medical professional liability claims; establishing the Joint Underwriting Association; regulating medical professional liability insurance; providing for medical licensure regulation; providing for tort reform; providing for administration; imposing penalties; and making repeals.

On the question,

Will the House concur in Senate amendments as amended by the Rules Committee?

The SPEAKER pro tempore. Moved by the gentleman, Mr. Micozzie, that the House concur in the amendments.

On that question, the Chair recognizes the gentleman, Mr. Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

I would just like the amendments to be explained to this body.

The SPEAKER pro tempore. Is the gentleman, Mr. Schroder, prepared to proceed?

The Chair recognizes the gentleman from Chester County, Mr. Schroder.

Conferences on the floor, please break up. Conferences in the back of the House, please break up. The House will come to order. Sergeants at Arms, will you please clear the aisles of the House. The conferences in the rear of the House, please break up. We are about to begin the debate. Please, we need to begin the debate. The House will come to order.

The gentleman, Mr. Schroder, is recognized for an explanation of the Senate amendments.

Mr. SCHRODER. Thank you, Mr. Speaker.

What I am going to try to do is go over the Senate amendments and then the changes that were made to the Senate amendments earlier this evening as a result of the vote of the Rules Committee.

Mr. Speaker, as you know, we sent HB 1802 over to the Senate. It consisted of three primary areas dealing with patient safety, medical malpractice, tort reform, and the CAT Fund (Medical Professional Liability Catastrophe Loss Fund).

The Senate made a number of changes, especially to the tort reform areas. They took out the comparative fault that we had put in there and restored – which means things would be restored to the standard joint and several liability. They took out the ability of plaintiff and defendant to argue damages at trial. They took out the changes that we had made to the statute of limitations. They took out the provision regarding mediation that we had had in our bill. They made some changes in the area of expert witness qualifications. Certainly the most controversial element in our bill, the contract for caps on noneconomic damages, that was taken out by the Senate, and also the jurisdiction and venue portion of the legislation that we passed was taken out. Now, that was replaced by something else, and I will get to that.

Also, there were several changes that they made to the CAT Fund section of the bill as well. With regards to the CAT Fund, surcharges from the automobile CAT Fund, which are estimated at \$37 million per year, will now be used to reduce the assessments levied on health-care providers beginning January 1, 2004, for a period of 9 years. There is a health-care provider discount which is reduced from 30 percent per year for the next 3 years to 5 percent for 2002, 10 percent for 2003 and 2004. There is a two-step phaseout of the medical malpractice CAT Fund resulting in ultimate fund elimination which will occur automatically unless the department proves that market capacity does not exist. In the year 2006 the primary insurance level goes to \$750,000, and in 2009 the primary insurance level goes to \$1 million with the CAT Fund coverage being zero; that is, if the Insurance Commissioner confirms that the market, the insurance market, can handle those changes.

Mr. Speaker, there were some changes made today in the Rules Committee with regards to the issue of patient safety, something that I did mention. The Senate had taken out the language that dealt with the accuracy of medical and patient records, which we thought was very important to restore that. That was restored in Rules. So, basically, it restores the language to preserve the accuracy of medical records where you cannot change or remove notations. It also requires the Patient Safety Authority that is set up to provide Internet access to its recommendations and to protect its records.

Law regarding economic losses that result from injury to persons or property is not changed regardless of fault. With regards to medical liability, noneconomic loss is also known as pain and suffering. The attorney fees are paid first, and the claimants may elect to receive a present-value lump-sum payment or a period of payments – in other words, periodic payments – of up to 20 years. So that is the noneconomic loss, pain and suffering, damages.

I mentioned that they took out joint and several liability. Joint and several liability has been restored, albeit differently than when we sent it over in 1802.

Proportionate fault is not considered for noneconomic losses of up to \$1 million. However, noneconomic losses of more than \$1 million will be apportioned by proportionate liability, and joint and several liability is removed.

Now, changes that were made in Rules with regards to the CAT Fund, the number of insured classes for medical personnel was restored to the 16 classes that exist in current law. It had been reduced to no more than eight classes in HB 1802.

I believe those are certainly the main points of the changes that were made by the Senate and in the Rules Committee earlier today.

The SPEAKER pro tempore. The gentleman, Mr. Vitali.

Mr. VITALI. Thank you, Mr. Speaker.

Just to be clear. Now, I mean, let us just take it one by one if we can, because I think the important distinction is the distinction between what is in the bill before us and what is in the bill as it left the Senate. Now, with regard to the issue of venue, how do the two differ, first the Senate and now the current?

Mr. SCHRODER. You will recall, Mr. Speaker, that when it left the House, we had a section in there dealing with jurisdiction and venue, which basically changed the rules for medical malpractice jurisdiction, which to the best of my recollection said that the case would only be brought in the county in which the injury or the medical malpractice occurred. What we have done now is that there is, and let me just make sure I get the right term; I want to make sure I have the— It is called an Interbranch Commission on Venue which will be established. It will be established to review the issue of venue in medical malpractice cases, and what—

Mr. VITALI. We are talking about the current printer's number? The commission is in the current printer's number?

Mr. SCHRODER. That is correct, Mr. Speaker. The version that is before us right now this evening.

Mr. VITALI. With regard to venue, what was in the bill as it left the Senate?

Mr. SCHRODER. Mr. Speaker, the bill as it left the Senate is the same that is before us right now with regards to the Interbranch Commission on Venue.

Mr. VITALI. Okay. So with regard to venue, there is no change between the two bills.

Mr. SCHRODER. That is correct.

Mr. VITALI. You had mentioned there was a change with regard to— Well, you had mentioned the issue of expert witnesses, and I guess by that you mean what sort of expert witnesses are necessary before a suit can be brought forward. In other words, what sort of witnesses, expert witnesses, must a plaintiff align himself or herself with before a case can be brought forward? Is that the expert witness issue?

Mr. SCHRODER. It establishes general rules for expert witness qualifications. It establishes a general rule for expert witness qualifications, and it talks about expert witness medical testimony.

It says that an expert testifying on a medical matter must meet the following qualifications: They must possess an unrestricted physician's license to practice medicine in any State or the District of Columbia. They must be engaged in or retired within the previous 5 years from active clinical practice or teaching. And then there is also a standard-of-care portion, and it says that the expert witness must be substantially familiar with the applicable standard of care for the specific care at issue as of the time of the alleged breach of the standard of care and must practice in the same subspecialty as the defendant physician or in a subspecialty which has a substantially similar standard of care. That is how it currently reads in the bill that is before us.

Mr. VITALI. And how does that differ from the Senate version?

Mr. SCHRODER. I do not believe there were any changes, Mr. Speaker, on the expert witness part that I just read to you from when it came over from the Senate.

Mr. VITALI. Okay. Can I assume in both bills, that cap of \$250,000 for noneconomic damages is in neither, or rather the patient contract provision for \$250,000 is in neither bill?

Mr. SCHRODER. You are correct, Mr. Speaker. That was taken out in the Senate, and that is not in the bill that is before us right now on the floor.

Mr. VITALI. The provisions with regard to patient safety, how do they differ, the Senate version versus the current version?

Mr. SCHRODER. Mr. Speaker, the changes with regards to patient safety, you will recall that in the bill that went over, we had a section regarding patient charts and what you could or could not do to a patient chart as far as making changes. That was all taken out in the Senate and has been restored over here in the House. So beginning on page 18 of the bill under "PRESERVATION AND ACCURACY OF MEDICAL RECORDS," you can find that, and it just basically requires that entries must be made and charts must be made contemporaneously, and you cannot erase entries, but if you correct an entry, you must correct it below and not erase the entry, and there are safeguards and protocol in there for the correct, you know, markings on patient charts.

Mr. VITALI. Let me ask maybe a broader question. With regard to the Senate version, I know that, for example, we were getting a lot of lobbying from the trial lawyers to support that, and with regard to the current version, it seems like the Medical Society was clamoring for us to support that. What are the differences between the two bills that make it in some people's view the Senate version more prolawyer in the House and this current version more prodoctor?

Mr. SCHRODER. That is a bit of a difficult question, because I am sure that is probably in the eye of the beholder, and the way you phrased it, I guess, Mr. Speaker, is what I am having a little trouble with here.

Mr. VITALI. What I am really trying to get at, because I think that, as I sense this, that the choice tonight may be between these two versions, and I do not quite understand the distinctions between them yet, what you have been saying to the extent I can understand it. I do not have a lot of technical background. I have not been able to ferret out dramatic differences between the two, but apparently there are.

Mr. SCHRODER. Well, certainly, Mr. Speaker, one of the main differences has to be the reintroduction tonight in the House of the concept of reforming joint and several liability. As I said, that was taken out during the Senate. That is back in in a revised fashion, if you will, from the way we sent it over to the Senate. That is

certainly one of the major areas, you know, as far as tort reform that is different.

Mr. VITALI. Okay. Thank you. That concludes my questioning, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny County, Mr. DeLuca.

Mr. DeLUCA. Thank you, Mr. Speaker.

Mr. Speaker, I rise to nonconcur in 1802, and I guess today I am a little puzzled. Last week we were asked to vote on the Schroder amendment, and I did vote on it because I thought I wanted to move the process. And we were supposed to let the Senate give us a bill that would take care of our constituents, take care of the multifaceted problem we had, and today we are here all day waiting; the Senate has gone home; we are not going to be back for 3 weeks, and all I heard last week is that we are facing a crisis out there and we needed to act quickly. Yet we are willing to put it off for another 3 weeks, and we do not even know if the Senate will act on this amendment, this 1802 as amended. But I guess what else disturbs me, Mr. Speaker, is the fact that once again, once again, we are using a government slush fund to take care of a problem in this Commonwealth.

Mr. Speaker, as I look at the catastrophic loss benefit auto fund here, we passed this in 1984, and let me quote what this trust fund was for: "The trust fund was designed to compensate victims of catastrophic motor vehicle accidents." Is it not amazing today that we are going to use that money in 2003 when it is fully funded to bail out the medical CAT Fund?

Every one of us here have hardworking constituents. They are not people that go out and intentionally break the law. They are people who make mistakes like each one of us who has a heavy foot one time or another, and they put this extra cost on these tickets. But is it not amazing that some people working two or three jobs, making minimum wages, are going to be forced to pay either a day or 2 days' work for making a mistake by getting a traffic ticket, and we are going to have them pay out of this government slush fund that every Governor, Governor Casey tapped, Governor Thornburgh tapped, and now Governor Schweiker is going to tap into. It is unfair.

Secondly, Mr. Speaker, we have not addressed— You know, we talk about patient safety, and I believe in this bill the patient safety aspect is very weak. You know, the AMA (American Medical Association) by their own admission admits that 10 percent of the physicians out there are incompetent or unfair. Now, there are approximately 50,000 physicians in Pennsylvania. That means 5,000 out there are working on one of our loved ones, a friend of ours, some child out there, and this bill does nothing to address the incompetent physicians out there.

Mr. Speaker, we can do better. Why we are doing this today when the Senate is not in session, I cannot even comprehend it. We talk about tort reform, yet in this bill we are talking about addressing the physicians; we are talking about medical tort reform. Now we put all the tort reform in there. We were not satisfied with just doing medical tort reform. We got product liability that we possibly could use this tort reform on. Is it not ironic how the special interests have infiltrated this bill? First it was the trial lawyers with their advertising saying, we need patient safety. They were not worried about patient safety; they were worried about their own special interest group. Then we had the doctors out there saying, we need tort reform. They were not worried about patients. I did not see any ad out there about patient health and quality of care.

This whole thing boils down to money, Mr. Speaker, nothing else, the bottom line, and this is a disgrace if we concur on this bill and go back home to our constituents and say we did something for the medical profession out there. Well, it is unfortunate we do not have all the lobbyists from all the people and the interest groups out there tonight, because it must be a done deal, because they know they are going to send this back to the Senate and it is not going to pass. We are just playing games here. They have got 3 weeks we are not going to be in this House. We should nonconcur and send it back there where it belongs.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Clearfield, Mr. George.

Mr. GEORGE. Thank you, Mr. Speaker.

Mr. Speaker, I shall not be very long, but let me say this, if I may. In no way do I insist that the maker of that bill was any less inclined to want to do something than myself. I know he does. But I want to remind him as well as you that brick and mortar alone does not make for a hospital, and if you come from a rural area like many of you fine folks on the other side, you know that doctors in our regard and our need are very hard to come by.

Mr. Speaker, very quickly, I talked to three of my friends that are doctors in Clearfield on this very day, and even though what had been passed by the Senate was not to their liking completely, and I admit that, what is their concern, not only on the price they pay for liability and protection in regard to the loss and liability that they can be confronted with, but they want something done now. They want something done that will relieve their pain. They want something done, especially those that have been already notified that as of June 1, they no longer will have that type of protection.

You know, for those of you that have the luxury to have many hundreds of doctors, for somebody like Bud George, who comes from a rural area and recognizes that whenever you have a loved one or even if you yourself are in need of this specialization in regard to medical needs, that not only are these doctors in your heart willing to serve an area where there would be greater advantage should they be in an urban or a city area, and associate with these people and to have them almost in tears because they say we no longer can afford to practice here. And for us to do the proper thing in regard to venue, the venue is here tonight where we ought to understand that if you really want to do something for these doctors that are so concerned, and legitimately so, is not to play with a bill that will go over to the Senate and simply lay there for week on end and not get anything done. The problem is now. We could have done something. This body is not without imagination. This body is not without compassion. This body is not without the knowledge. This body has the ability. But what happened to us in the last couple of days, where it is not the malpractice or the doctors we are concerned about but the political forces that surround it.

Mr. Speaker, everybody wants something done with the malpractice problem, but we are reaching far beyond what is legitimate and what is a need. Even today one of my friends that is a doctor said, well, at this moment something is going on down there in Harrisburg. I have been here since a quarter to 7, and I was not aware of what was going on down in Harrisburg. But the doctor was right; something was going on in Harrisburg that was not in the best interests of the doctors in my area, the people who reside in my area, those individuals that need those doctors, and

the fact remains, not in the best interests of any of us in the long run. I would suggest this bill is not only improper, it is ill affordable in many ways.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the Democrat floor leader, the gentleman from Greene County, Mr. DeWeese.

Mr. DeWEESE. Thank you very much, Mr. Speaker.

There is an old African proverb that when elephants fight, only the grass gets trampled. Tonight, GOP titans in the Republican Senate are squared off against Republican chieftains here in the House. The elephants are fighting, and my maxim will be to contort, contort the initial phrase and say that in this legislature on medical malpractice the truism will be, when the elephants fight, only the patient's rights will be trampled. We can act tonight and solve this problem, Mr. Speaker.

The Latin phrase "cosus belli" means reason for war. The cosus belli for the American Revolution was at Lexington and Concord. The cosus belli for the Civil War was Fort Sumter. The cosus belli for World War II for our forces was Pearl Harbor, and of course, the cosus belli for our current war footing was September 11. The cosus belli for tonight's legislation is a terrible insurance malpractice crisis in our State.

Two weeks ago, in my view, we sent the Senate a loathsome expediency, and it was accepted and then burnished and refurbished, and that basket of snakes that we sent to them a couple of weeks ago came back to us last night. Eighty-eight percent of the Republican-controlled Senate, eighty-eight percent of the Republican-controlled Senate sent us a compromise proposal in the wee hours, and many of us decided that in the interest of reducing insurance rates for doctors, in the interest of reducing insurance rates for doctors, we would take the compromise that Lieutenant Governor/Senator/President pro tem/and my friend, Robert Jubelirer, and his Senate colleagues sent to us last night. We said we will take that compromise and then on February 13 we can send this bill to the Governor's desk. To paraphrase that lovely phrase that I have used before from this microphone, Schweiker, our Governor, Governor Mark Schweiker, before the iron tongue of midnight doth toll 12 could sign this legislation, and immediately, insurance rollbacks would commence. Now, for some inexplicable reason, Republicans in the House are squared off against Republicans in the Senate, and the elephants, they are a-fightin'.

Now, I realize this is a very arcane subject matter, medical malpractice reform. It is a complicated minuet. It would be as hard to get all of us to agree as it would be to pinpoint the inamorata of the Prince of Wales. But nevertheless, we had a compromise tonight, and that compromise, Mr. Speaker, seems to be rejected as we speak.

I am going to ask – and I am going to fortify my motion in a moment – I am going to ask in the next couple of minutes for a motion to revert to the prior printer's number, 3320, so that we could take the Senate proposal that was embraced by 88 percent of the Republican Senate last night – the Republican Senate last night. We Democrats want to get on with business. We want to help our doctor friends. We want to roll back insurance rates, and we want to do it tonight. We want to do it now.

Senator Jubelirer's legionnaires last night on the floor declared that if their proposal were to pass, there would be a 40-percent reduction in the insurance rates of doctors across this State. If we

are hearing that from the Republican Senate team, then why are we postponing our deliberations tonight?

Also, as the gentleman from Chester, the Honorable Representative who has been leading the charge on the floor, has acceded and every attorney and every member in this chamber realizes, there have been substantial tort changes, and I would like to ask Mr. Macon, our chief page here on the floor, to include these remarks in the record. Here are six items. I will not belabor the chamber with all six; I will only enumerate two of them. But a second reason other than number one – we want to do it tonight and we want insurance rates to roll back tonight, we want the Governor to sign it tonight – the second reason is that tort reform – and I have just allowed the gentleman, Mr. Macon, to enter it into the record – tort reform is being realized substantially.

REMARKS SUBMITTED FOR THE RECORD

Mr. DeWEESE submitted the following remarks for the Legislative Journal:

THE TORT REFORMS IN 1802

The Medical Society's contention that meaningful tort reform did not pass the Senate is not supported by the facts. What the Senate did was to strip provisions that would undoubtedly be unconstitutional and pass other meaningful limitations on damages in their place.

1) Coverage limits have been lowered from 1.2 million down to 1 million, reducing protection available to patients by 17 percent.

2) The collateral source has been amended, giving doctors found liable for negligence credit against the damages owed for what was paid by the patient's private health and disability insurance. The patient is now forced to subsidize the hospital or doctor which caused injury, even if it means the patient must exhaust all of the benefits available under the lifetime cap in place in most health care plans.

3) If punitive damages are awarded, the patient must contribute 25% of such damages to the CAT Fund, and such damages were already capped by legislation in 1996.

4) All future damages for wage loss must be discounted to present value, which will dramatically lower lump sum damages, and in the case of children especially, significantly lower awards.

5) All future damages for medical expenses must be paid out over time through periodic payments, and the health care provider can force the patient to accept payments from an insurance company chosen by the defendant. The patient loses significant flexibility by being locked into an annuity plan that might not need future needs.

6) No expert can testify in a malpractice case without meeting a strict standard proposed by the Pennsylvania Medical Society.

The Medical Society's abandonment of negotiations and unreasonable demands for even more limitations upon patient rights cannot be condoned.

The gentleman from Chester talked about expert witnesses. No more flimflam, higgledy-piggledy, harum-scarum expert witnesses; we are going to take the Pennsylvania Medical Society's definition of what an expert witness is, and those are the men and women who will be in court on these kinds of medical malpractice cases. That is what the doctors wanted among other things, so last night Robert Jubelirer and the Senate sent us a proposal that would aid our effort to increase the professionalism of expert witnesses. And one other thing I might add relative to tort reform: doctors are only going to be asked to go up to \$1 million of insurance rather than \$1.2 million of insurance, which will inherently help in that rollback that I discussed in my

commencement.

In a matter of hours, Mr. Speaker, the Republicans took a medical malpractice bill and turned it into a bill to overhaul the entire tort system. Product liability, communities fighting toxic wastesites— Whoever that benighted soul was that commenced his applause or her applause should remember that joint and several liability in toxic waste cases is not a matter for applause. Product liability cases which sever arms and limbs in coal mines and factories and steel mills are not a matter for lighthearted banter.

And on the front pages of our national gazettes and journals in the last many weeks we have been hearing about Enron and Arthur Andersen. An elderly woman who worked at Enron recently retired, and her pension had been forfeited by the mischief in the corporate suites in Houston, and 90 percent of that problem was generated, as was found in court, by Enron, and 10 percent was found to be Arthur Andersen's fault. But Enron only has about 15 cents in their pocket, and Arthur Andersen still has hundreds and hundreds and hundreds and hundreds of millions of dollars of assets, and that little lady who just retired is going to forfeit her pension if this kind of joint and several liability is included in this bill tonight.

We came here to do medical malpractice. Senator Jubelirer and his team sent us something. We want to do it tonight, and what do we get from the Rules Committee which all Democrats voted against on the Rules Committee today? We get an overall tort reform bill. And where was the honorable chairman of the Judiciary Committee on the Republican side of the aisle? He was not given the chance to be a stalwart in the battalion; he was shunted to the side. This did not go through the Judiciary Committee. We are going to do tort reform in general and not send it through that percolation process?

The committee system in this House needs looked at again. This bill explodes joint and several liability. If this bill passes, people will have to wait a long time for their compensation while the courts sort out which defendant is responsible for how much damage.

Mr. Speaker, because of the aforesaid reasons but preeminently because of the fact that we want to send a bill tonight that will roll back insurance rates for doctors up to 40 percent as was declared by Senate Republicans last night, I would move that we go to a prior printer's number that I had mentioned before in my remarks, and I would ask that the Assembly embrace that so we can send a rate reduction bill for doctors to Governor Schweiker tonight.

Thank you very much, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The gentleman, Mr. DeWeese, to revert to a prior printer's number at this stage of the process where we are considering a bill as amended by the Senate, to revert you need to suspend the rules. The motion would be to suspend the rules to revert to a prior printer's number, because when we revert, we are in essence changing the language of the bill, which is an amendment. So you would need to move to suspend the rules to revert to the prior printer's number, which under our rules would require a vote of 134.

MOTION TO SUSPEND RULES

Mr. DeWEESE. Thank you, Mr. Speaker.

It has been a long time ago, but I did have the momentary opportunity to preside from that seat, and I am well aware of your polite admonition.

I would therefore move – and I would assume that everyone would vote unanimously to suspend the rules so that dialectic can be reenergized – I would ask that the rules be suspended in order that we can vote on Senator Jubelirer/Pro tem Jubelirer/Lieutenant Governor Jubelirer’s proposal to roll back 40 percent of our insurance rates.

Thank you, sir.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question,

Will the House agree to the motion?

The SPEAKER pro tempore. The gentleman’s motion is debatable by the floor leaders.

The Republican floor leader defers to the gentleman, Mr. Schroder.

Mr. SCHRODER. Thank you, Mr. Speaker.

Mr. Speaker, I urge the body to vote against the suspension of rules to revert to the prior printer’s number, which as we all know would leave it as the Senate sent it over to us, and I want to do that for several reasons, and many of them are reasons that the previous speaker directly mentioned, which I happen to disagree with.

Anyone who thinks that the Senate version is going to provide us with 40-percent reductions in premiums must be using Arthur Andersen as their accountant to come up with that number. Mr. Speaker, Mr. Speaker, I watched— There was not a debate; it was just a vote last night in the Senate. I heard some numbers being bandied about, no basis given as to where they came from, and they were nowhere near 40 percent that I heard. That is reason number one.

The gentleman also said that for some inexplicable reason we are squaring off against the Senate and we need to get this done right away. Well, Mr. Speaker, the reason this was amended today and the reason we do not want to revert to a prior printer’s number and suspend the rules to do that is if anyone talked to their folks back home today after that Senate vote last night, they are telling you something different. I talked to my people back home, and I have talked to many people in this body today who did likewise. They talked to their medical professionals. They talked to their hospitals. They talked to the people who are on the front lines of this debate, and they said, yes, it is bad, but as bad as it is, they would rather wait; they would rather wait until something meaningful is reported out of the House and the Senate and sent to the Governor’s Office.

Mr. Speaker, reverting to the prior printer’s number will solve nothing. The folks back home who are the ones who count, who are the ones that we are up here to fight for, they do not want that. They believe that what was passed last night was inadequate, and I urge this House in the strongest form possible to deny the motion to suspend the rules.

Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman, Mr. DeWeese.

Mr. DeWEESE. I give the gentleman kudos for his excellent repartee. The Arthur Andersen remark was quick and worthy of the Irish wit of our presiding officer. Notwithstanding that, the Lieutenant Governor of the Commonwealth was the gentleman

who affirmed that 40 percent would be a figure that would be actual, and I did not make that figure up.

I think the eminently convivial, dapper, and engaging Sam Marshall even acceded to the fact that there would be a rollback potential of in the high single digits. I do not know that that is acceptable to most of the people here, but nevertheless, I think that we take a real shot at not getting anything. I think if we do not vote tonight on what my colleagues, my Republican colleagues, 88 percent of the whole Senate, Republicans and Democrats, it was almost a unanimous phalanx last night on the other side of this building in favor of this proposal, and I think that they have probably carved their position in granite. I know and you all know the affinities that they share with a variety of different people in this town, and if we do not send the Governor this measure tonight, I would proffer the idea that we may not get a medical malpractice proposal in the legislature during this session.

We have our contests in the primary and our canvassing in the summer for the fall election, and I think that the climate is right tonight. I think that many of us, the vote will not be all that lopsided, I would conjecture. Many of us want to go along with our Senate colleagues. Send this proposal to the Governor for his signature.

I will conclude by remarking that my old high school teacher-pal from across the river, Jerry Matthews, told me one time, dear Lord, fill my mouth with worthwhile stuff and nudge me gently when I have said enough. Well, I have said enough, but I would like for the rules to be suspended so we could get on and send this proposal to the Governor. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The gentleman, Mr. DeWeese, moves that the rules of the House be suspended to revert to the prior printer’s number, PN 3320.

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—106

Bebko-Jones	Frankel	Markosek	Scrimenti
Belardi	Gannon	Mayernik	Shaner
Belfanti	George	McCall	Solobay
Bishop	Gordner	McGeehan	Staback
Blaum	Grucela	McNaughton	Steelman
Butkovitz	Gruitza	Melio	Stetler
Buxton	Haluska	Michlovic	Sturla
Caltagirone	Hanna	Mundy	Tangretti
Casorio	Harhai	Myers	Thomas
Cawley	Harper	O’Brien	Tigue
Cohen, L. I.	Hennessey	Oliver	Travaglio
Cohen, M.	Horsey	Pallone	Trello
Colafella	James	Petrarca	Trich
Corrigan	Josephs	Petrone	Veon
Costa	Kaiser	Pistella	Vitali
Coy	Keller	Preston	Walko
Cruz	Kirkland	Readshaw	Wansacz
Curry	Krebs	Rieger	Washington
Daley	LaGrotta	Roberts	Waters
Dally	Laughlin	Robinson	Williams, J.
DeLuca	Lawless	Roebuck	Wojnaroski
Dermody	Lederer	Rooney	Wright, G.
DeWeese	Lescovitz	Ruffing	Yewcic
Diven	Levdansky	Sainato	Youngblood
Donatucci	Lucyk	Samuelson	Yudichak
Eachus	Manderino	Santoni	Zug

Evans, D. Mann

NAYS—90

Adolph	Egolf	Maher	Saylor
Allen	Evans, J.	Maitland	Schroder
Argall	Fairchild	Major	Schuler
Baker, J.	Feese	Marsico	Semmel
Baker, M.	Fichter	McGill	Smith, B.
Bard	Fleagle	McIlhattan	Smith, S. H.
Barley	Flick	McIlhinney	Steil
Barrar	Forcier	Metcalfe	Stern
Bastian	Gabig	Micozzie	Stevenson, R.
Benninghoff	Geist	Miller, R.	Stevenson, T.
Birmelin	Godshall	Miller, S.	Strittmatter
Boyes	Habay	Nailor	Taylor, E. Z.
Browne	Harhart	Nickol	Taylor, J.
Bunt	Hasay	Perzel	Tulli
Cappelli	Herman	Phillips	Turzai
Civera	Hershey	Pickett	Vance
Clark	Hess	Pippy	Watson
Clymer	Hutchinson	Raymond	Wilt
Coleman	Jadlowiec	Reinard	Wright, M.
Cornell	Leh	Rohrer	Zimmerman
Creighton	Lewis	Ross	
Dailey	Lynch	Rubley	Ryan,
DiGirolamo	Mackereth	Sather	Speaker

NOT VOTING—3

Armstrong Freeman Kenney

EXCUSED—2

Stairs Surra

Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,

Will the House concur in Senate amendments as amended by the Rules Committee?

**THE SPEAKER (MATTHEW J. RYAN)
PRESIDING**

The SPEAKER. Mr. Blaum, Ms. Manderino is pointing to you as you are pointing to her. Mr. Blaum, you are recognized.

Mr. BLAUM. Thank you, Mr. Speaker.

Mr. Speaker, the gentleman on the other side of the aisle just said it is important that we do something meaningful. Two weeks ago the definition of meaningful was making an ill Pennsylvanian walk into their doctor's office and be forced to sign a contract that you would not sue that physician for anything more than \$250,000 if some egregious, avoidable medical error happened to them. If that became law, Mr. Speaker, there would be a revolt in Pennsylvania. That was insulting to the people of Pennsylvania, and it was insulting to Pennsylvania's physicians. That left this House and was properly removed by the Pennsylvania Senate.

This is a very frustrating night, and while I talk to my colleagues here in the House, I also talk to every Pennsylvania physician who may be watching PCN (Pennsylvania Cable Network) tonight and the people of Pennsylvania who may be

watching PCN tonight that they might understand what this is all about.

Mr. Speaker, we had an opportunity tonight to do something meaningful, meaningful with the problem of medical malpractice premiums in Pennsylvania. They are too darn high. Two weeks ago we passed a piece of legislation in this House which was egregious, which was mean spirited to the people of Pennsylvania. There is not a member in this House, senior or junior, who thought that was going to become law, yet everybody was happy to meet with their physicians and fool them into thinking that that was a possibility, that there was a Governor who would sign such a thing, forcing Pennsylvanians who go into their physician's office for help would have to first affix their signature to a contract saying that if you do something terrible and ruin the rest of my life, I promise, Mr. Physician, that I will not sue you for more than \$250,000. Two weeks ago we put in the record how good doctors did not want that, yet they were fooled into thinking that that was a possibility of becoming law.

Mr. Speaker, that bill went over to the Pennsylvania Senate, and the Senate, acting professionally and properly, as those of us know how this legislative process works, put a lot of good things into 1802 and got rid of the bad things, got rid of the things that would never stand up in court, got rid of the things that would not bring about a reduction in premiums but were put in there for some unknown reason. The first to go was that ridiculous contract.

What the Senate did yesterday on an amazing, almost unanimous vote of 42 to 6, 43 to 6, was to act speedily and move to this House a bill that could have been on the Governor's desk by noon today and already be bringing about some reductions in premiums for malpractice in Pennsylvania. It was mentioned in the Senate by the Republican members of the Senate that that might be 40 percent. Let us say it is 25 percent. It would have been a dramatic reduction in the horrible malpractice premiums that our doctors have to pay. But that is not what happened here tonight. No bill is going to the Governor's desk. There is no adult supervision. We have no leadership on this issue from the Governor of Pennsylvania. That is a shame. Those of us who have served under previous Governors know that on any issue like this, there would have been that mediation; there would have been that involvement; there would have been that influence used to get a bill to the Governor's desk. That was not done.

So before us today we have a bill that instead of on concurrence and going to Governor Schweiker's desk was amended in Rules Committee, which now makes this bill, still 1802, the same as the version 2 weeks ago, a bill that cannot become law. So quit fooling the good doctors of Pennsylvania who up until tonight and maybe only up until 2 weeks ago were believing what you were saying. I do not think they believe it anymore. We now have before us this version of this bill as amended in Rules Committee, a bill which the veteran members of this House know is not going to become law.

The gentleman, Mr. DeWeese, made a very wise motion in reverting to the prior printer's number, which would have allowed us to consider the version which came over from the Senate and have one last chance to send a bill to the Governor's desk. That motion was just defeated. I assume the votes are here to pass a bill over to the Senate which is not going to become law. The veteran members of this chamber know that that is a train wreck. The physicians of Pennsylvania should know that that is a train wreck. Nobody knows now what is going to happen to medical malpractice premiums in Pennsylvania or whether a solution will

be found to lower them because of the silliness here tonight in the House.

Mr. Speaker, inserted, inserted into this bill in the Rules Committee is an amendment which deals with joint and several liability. For the last 2 months and certainly the last 2 weeks, we have been dealing with medical malpractice. But just so all of Pennsylvania's physicians who are watching tonight at 5 after 9 and the people of Pennsylvania understand, this is not really about medical malpractice. Let me read, let me read what is on page 74 in this legislation, between lines 21 and 26. In dealing with the issue of joint and several liability, here is what it says: "THIS CHAPTER SHALL APPLY TO ALL ACTIONS" – all court actions – "BROUGHT TO RECOVER DAMAGES FOR NEGLIGENCE RESULTING IN DEATH OR INJURY TO PERSON OR PROPERTY AND SHALL NOT BE LIMITED TO MEDICAL PROFESSIONAL LIABILITY ACTIONS OR CLAIMS." That means that we are now, as of this bill being amended, no longer just talking about medical malpractice. This now deals with joint and several liability, as the gentleman, Mr. DeWeese, pointed out, in toxic waste dumps. It now deals with joint and several liability on malfunctioning toys that could harm a kid. It now deals with joint and several liability on all kinds of items which have nothing to do with the high malpractice premiums that our doctors pay.

Does anybody have any idea, do the good doctors watching at 6 minutes after 9 understand, understand how many groups this language will arouse throughout Pennsylvania who really did not have a stake in whether or not this medical malpractice bill passed but now do and will use everything they have to oppose this language from becoming law in Pennsylvania? Once again, you are fooling the doctors of Pennsylvania. These are bright people. They will only take it for so long. Two weeks ago you tricked them into believing that a contract that some elderly woman would have to sign when she went into the doctor's office to say that, doctor,

I will not sue you for more than \$250,000, that that might have a chance to become law. You fooled them. I believe they know it now. You are tricking them into believing that this could possibly become law. When joint and several liability for medical malpractice was removed in the Pennsylvania Senate by a vote of 42, 43 to 6, do you think now it is going to be expanded to malfunctioning toys which injure children? Do you think that now it is going to be expanded to toxic waste dumps that injure communities? Are you kidding me?

The doctors of Pennsylvania tomorrow morning are going to find out; they are going to find out that a silly bill left the Pennsylvania House of Representatives and went over to the Senate and has no chance of being passed by the good members of that body. That is what is so frustrating about tonight. We went through the legislative process; we went through an awful lot of debate; this bill went back and forth. That is the legislative process. But instead of reaching conclusion tonight, the train is going to go off the tracks. Every veteran member of this body knows what that means, and yet you are letting it happen and fooling the doctors of Pennsylvania.

Mr. Speaker, I wish everybody could have been at the Judiciary Committee meeting this morning when representatives of the CAT Fund were there, and they were asked the question, we have heard the statistics; is it really true, is it really true that 2 percent of the doctors, that only 2 percent of the doctors, are responsible for 40 percent of the payout in the CAT Fund? They

said yes, and if you have heard those figures, they are accurate, because they are our figures; they come from the CAT Fund. I said, but we cannot know who those doctors are and nothing in 1802 tells us who those doctors are, the 2 percent that are causing the problem for the other 98 percent. The maker of this bill will not expose who those 2 percent are. That coverup will continue tonight. You know what the representatives of the CAT Fund said to us? They said, that is true; you cannot know who those 2 percent are. So I said, I said, you mean that some clerk that mails out the checks from the CAT Fund, they know who the responsible physician is but my constituents cannot know? They said, that is true. They even went further. They said there is one doctor in Pennsylvania who is responsible for 10, 10 payouts from the CAT Fund. Now, that is just not claims, that is just not claims that go and are satisfied by that bad physician's insurance; that is claims that if the physician's insurance does not do the trick, it now must go to the \$1.2 million from the CAT Fund. They said, if we could get rid of that one doctor who has 10 claims, that would have an effect on the medical malpractice premiums of all of Pennsylvania's physicians, just removing that one doctor. But that doctor is protected in the bill you are going to pass tonight. They said, if we could just get rid of a small number of the 2 percent, just a small number of the 2 percent, it would have a dramatic effect on the reduction of medical malpractice premiums for our doctors. But you are so darn interested, you say you are so darn interested in reducing the medical malpractice premiums for good doctors, but you do not want to reveal who the 2 percent are.

There is a doctor in Pennsylvania who has had 10 successful claims paid out by the CAT Fund, found guilty of malpractice 10 times, and he lives or she lives in one of our districts, and we do not know whose, and we do not know who or what patients are going to that physician tomorrow morning, yet you provide nothing in here to correct that problem. That is a sin. That is fooling the people of Pennsylvania and that is fooling the good physicians of Pennsylvania. So what is going to happen tonight is a ridiculous bill with no chance of becoming law is going to leave this chamber and go over to the Senate and sit until the professionals over there decide to once again take up the issue and send us the language they sent before. It is a frustrating night, Mr. Speaker, but it is time to stop fooling the physicians of Pennsylvania and to stop fooling the people.

Mr. Speaker, I ask for a negative vote on this bill.

The SPEAKER. The Chair recognizes the lady from Philadelphia County, Ms. Manderino.

Ms. MANDERINO. Thank you, Mr. Speaker.

I picked up on the same words as the prior gentleman from Wilkes-Barre and our Democratic chair of the Judiciary Committee when HB 1802 as it came over to us from the Senate was described as not meaningful and wanting to wait for something meaningful, and I guess I can assume that the amendments that the Republican leadership of the Rules Committee put into this bill tonight are what we are supposed to surmise to be the significant difference that is worth delaying this bill and medical malpractice reform measures from the doctors, the hospitals, the patients, and the citizens of Pennsylvania. Well, I do not buy it, and here is why.

HB 1802 as it came from the Senate had some very significant measures that were designed to immediately start reducing malpractice premiums. A reduction in the amount of insurance from \$1.2 million to \$1 million was designed to reduce the CAT Fund surcharge by at least 5 to 8 percent were the estimates

that I got; \$400 million over the course of the next 10 years coming from the drivers of Pennsylvania who get tickets, transferred in to underwrite the liabilities of the medical malpractice CAT Fund, with significant reductions estimated to be at least 10 percent a year from that fund; periodic payments for economic damages, shifting the cost from the medical malpractice liability payments to the injured patient to bear the extended costs or the money being saved through the periodic-payment mechanism. I never got an exact percentage of what that was going to bring down premiums by, but I will bet you dollars to doughnuts that the amount of premium reduction that physicians would see on their malpractice insurance for periodic payments for economic damages is as great or greater than any periodic payments that they will see for noneconomic damages, which is one of the two, I guess, very meaningful things that we had to amend this bill for, because that is one of the two amendments that had to go into Rules, periodic payments for noneconomic damages, and I cannot imagine the percentage of that is anything greater. It is probably much less than that for economic damages.

And finally, the other very significant cost savings to malpractice premiums and cost shifting to other payers is the collateral-source rule, which is now saying that instead of the malpractice premiums bearing the full cost of what that malpractice caused, if you had primary health insurance, the primary health insurance is going to pick up part of that tab. So we are shifting the cost of the negligence of the medical injury from the malpractice insurer to the health-care insurer. That is the primary health-care insurer; now they are going to have more expensive costs, because they would have gotten reimbursed for that under subrogation as the law currently exists. And pushing it back the next step, employer health-care premiums in the long run are going to bear the burden of that economic shift.

Employers with regard to wages. Under the current rules, if you had lost wages that you were already paid for through some disability or any other source that your employer paid for those economic losses, you cannot recover them because of the new language in 1802, so we are shifting the cost away from medical malpractice premiums and onto employers who pay wages and disability benefits. Now, you might ask, are those reasonable or necessary shifts to happen? In an ideal world I would tell you we should not do it, but in a realistic world where I recognize we have a very real problem with too high malpractice premiums, I am willing to say those shifts are worth it, and I was willing to say those shifts were worth it tonight by voting for 1802 as it came over from the Senate.

So what was so piddling about that and so meaningful about what was done in the Rules Committee? Well, we already talked briefly about periodic payment for noneconomic damages, and the percentage of reduction that that could save in malpractice premiums, while I have heard nobody put a dollar figure on it, must be minuscule compared to the other four items that I listed. So then I started to ask myself, what is that one really all about? Why periodic payments for noneconomic damages? And with regard to joint and several liability, and I think my colleagues made a wonderful argument about how this is now taking it out of med mal and making it broad across the board, but even when you look at that within the context of med mal, and I recognize that it is getting rid of joint and several liability only in the cases of noneconomic damages, I start to ask myself, gee, the two significant amendments that had to go in this bill in the House Rules Committee both have to do with noneconomic damages.

Whom are we after? Are we after reducing the malpractice premiums? I do not think so, because these are very small pieces of the puzzle compared to the other dollars that we have already put in the pot. We are after those bad lawyers.

Now, let us not worry about whether those lawyers are protecting an injured patient's right to recovery, and let us not worry about whether the actions that we are taking are going to harm an injured patient and their family, because the big, bad lawyers are the ones who we have to figure out how to make it such that maybe they will not take people's claims and take people's cases, even if it is legitimate. Let us look at the one part of a legal case where the expert witnesses that are necessary in order to come to trial get floated from, where the lawyers' fees get floated from, where the harm to that family's pain and suffering gets floated from, and let us see how we can stick it to them. That, Mr. Speaker, is what those Rules amendments were about.

And you know what? The shame of it is, it is really not going to hurt the legal profession, I think, as it is aimed to hurt, but it is potentially going to hurt some ailing families out there, and let us look at an example right within the context of medical malpractice, because, God forbid this example be your 5-year-old child or your 5-year-old grandchild who, as a result of medical negligence, is now severely brain damaged with severe, multiple physical and mental handicaps that will last for the rest of their life. Before that injury, Mom and Dad both worked, and Mom's, as an example, contribution to that family as an economic unit was very important for moving that family and keeping them economically sound and healthy. But Mom now has a severely mentally retarded and physically handicapped child that she will not just care for until he graduates from high school at 18, that she will not just be his caretaker and ward and a family provider Mom and Dad until he or she is 21 years old and graduates from college, but for the rest of that child's life, those adult parents will sacrifice and provide and make a home and care for and cover every physical and emotional need of that child.

Mom will not work outside of the home. The family will not have the income of Mom working outside of the home. Mom's lost wages are not economic damages, because she is not the injured party. She is experiencing and her gift to that child is loss of life's pleasures, a noneconomic damage, or loss of consortium, as some like to call it, a noneconomic damage, and we do not really worry about what we are doing to that family, because we need an extra ounce of flesh from those big, bad lawyers, and since noneconomic damages is where the contingent fee comes from, let us try to stop the case before it even happens.

In light of everything else that was in 1802 from the Senate, the fact that those are the only two significant items that had to be amended in the Rules Committee, so that we had to delay this process, not send a bill to the Governor tonight that could save significant money starting the minute it becomes law, but rather, put the head of the House majority party and the head of the Senate majority party in a game of chicken with each other that can last for who knows how long, shame on us; shame on us, because it did not have to happen, and we had a very meaningful proposal that came over to us tonight that could have brought relief.

I guess the one last point that I want to make is, I am very concerned about the expectations that have been built up by those in the back of the chamber of the House and the Senate, the professional lobbyists, particularly with regard to the medical community, because, Mr. Speaker, no matter what we pass, the

folks at home are not going to be satisfied, because whatever they have been told is not something that can be delivered by legislative remedy.

I had one of my doctors tell me today that they were absolutely expecting the taxpayers of Pennsylvania to pick up the tab for \$2.4 billion worth of liability on the CAT Fund with no responsibility to the doctors—

The SPEAKER. Ms. Manderino.

Please. There are conferences on the side aisles and the rear of the hall of the House that must cease.

Ms. Manderino.

Ms. MANDERINO. Thank you, Mr. Speaker.

Now, you know and I know, if we are honest with ourselves, that there is no legislative remedy that is going to next year give 50-percent premium malpractice reductions and a total elimination of the liability of the medical malpractice CAT Fund, but somebody has built up expectations that the taxpayers of Pennsylvania are going to pick up \$2.4 billion of unfunded liability and just make it go away.

Well, I am not here to make things go away; I am here to make responsible law. HB 1802 as it was sent to us from the Senate was very responsible and meaningful law, and quite frankly, I hope that the leaders in the other chamber are not the first ones to fall off the shoulders in the game of chicken that is going to go on in the next couple of months, because I suspect it will be months, and I will be there to support their reasonable, meaningful, and thoughtful approach to this process.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the lady.

The lady from Montgomery, Ms. Bard.

Ms. BARD. Thank you, Mr. Speaker.

Mr. Speaker, the issue before us is providing real and meaningful tort reform and reform to the medical malpractice system to stabilize our health-care system.

Right now our hospitals are forced to scramble almost on a daily basis to provide the citizens of Pennsylvania with the access to health care which they so rightly deserve.

Just Monday of this week, one of the hospitals that I represent, Abington Memorial Hospital in Montgomery County, lost another of its neurosurgeons. This specialist will be moving his family so that he can practice in Cincinnati, Ohio. This is the second of Abington's full-time neurosurgeons to leave the State of Pennsylvania due to the medical liability crisis.

Abington Memorial Hospital must maintain a full complement of neurosurgeons in order to retain its designation as a trauma center. At great cost, Abington has had to scramble to contract with an additional neurosurgical unit in order to be able to provide the necessary specialist coverage.

Mr. Speaker, the amendments that we are considering provide the tort reform regarding joint and several liability which has been deemed by Abington Hospital to be absolutely critical. These amendments provide that reform for proportional liability, and the Hospital & Healthsystem Association of Pennsylvania has written, and I quote, "We support the proposed House amendments to HB 1802, which provide for further tort reforms. We believe that these amendments will provide additional, meaningful long-term savings."

Mr. Speaker, this is vital not just for hospitals and doctors; this amendment is vital for all businesses across Pennsylvania, and that is why the Chamber of Business and Industry in Pennsylvania has supported this amendment as well. They have written, and I quote,

"The Pennsylvania Chamber of Business and Industry SUPPORTS efforts to amend HB 1802 to include the elimination of joint and several liability.

"The elimination of joint and several liability is, and has been, the top legislative priority for the Chamber on behalf of its over 10,000 members"; 10,000 members across the State of Pennsylvania.

Mr. Speaker, these amendments also afford a measure of immediate relief for our doctors who are being chased out of this State – doctors who are the small businesses, doctors who provide much-needed services to our citizens. And that is the reason that the Hospital Association has written, and I quote, "We also appreciate the commitment of the House and Senate leaders, and the governor, to direct funds from the Catastrophic Loss Continuation Fund to support hospitals and health systems and to reduce the unfunded liability of the Medical CAT Fund."

Mr. Speaker, without these amendments, this legislation does not adequately address the crisis at hand. These amendments are critical. I ask for the support of the House.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the lady.

The Chair recognizes the gentleman from Delaware, Mr. Gannon.

PARLIAMENTARY INQUIRY

Mr. DeWEESE. Mr. Speaker? Mr. Speaker?

The SPEAKER. Pardon me. Mr. DeWeese.

Mr. DeWEESE. Just a point of parliamentary inquiry.

Respectfully, I just would ask that the House focus, rivet its attention on the chairman of the Judiciary Committee.

The SPEAKER. Mr. DeWeese, my experience with Mr. Gannon is such that it need not be called to the attention of anyone. He is perfectly able to draw attention to himself.

Mr. Gannon.

Mr. GANNON. Mr. Speaker, I would like to interrogate Representative Schroder.

The SPEAKER. The gentleman, Mr. Schroder. Will the gentleman yield.

There are entirely too many conferences in the rear of the hall of the House. Sergeants at Arms, ask the various gentlemen to disperse, please.

Mr. Gannon.

Mr. GANNON. Thank you, Mr. Speaker.

The SPEAKER. The gentleman, Mr. Schroder, indicates he will stand for interrogation. You may begin.

Mr. GANNON. Thank you.

Mr. Speaker, I have been reading this legislation and listening to the debate and the discourse throughout the day, and I am scratching my head in bewilderment, and the bewilderment is that I have been told repeatedly, both here in Harrisburg and back home, that our doctors face an immediate crisis, and that crisis is in the cost of their medical malpractice insurance, and in reading the bill – and you had mentioned it a little bit earlier – there was something called a risk classification, and as I understand the Senate version that came back to the House, the bill reduced the number of risk classifications. Is that a fair statement, Mr. Speaker?

Mr. SCHRODER. Yes, Mr. Speaker. It reduced it to no more than eight classifications.

Mr. GANNON. And what was the number before that?

Mr. SCHRODER. It was 16.

Mr. GANNON. So it reduced it from 16 to 8.

Now, with that reduction from 16 risk classifications to 8, what would have been the malpractice premium savings to those physicians in the high-risk classification, such as orthopedic surgeons, neurosurgeons, who we have heard are leaving the hospitals of Montgomery County because of the high malpractice cost? What would have been the reduction in premiums for their malpractice insurance by collapsing that pyramid from 16 to 8?

Mr. SCHRODER. Mr. Speaker, I believe that amount was unquantified, and I am afraid that I do not have that answer for you, because we were not sure, I believe, how they were broken down or how they would end up being broken down.

Mr. GANNON. And, Mr. Speaker, the amendment that was placed in this bill by the Rules Committee, did that change that number of risk classifications from the version that came over from the Senate?

Mr. SCHRODER. I am sorry, Mr. Speaker. Could you repeat that one more time?

Mr. GANNON. The amendment that was placed in the bill by the House Rules Committee, did that change the number of risk classifications as the bill came over from the Senate?

Mr. SCHRODER. Yes; it restored it to 16, Mr. Speaker.

Mr. GANNON. Okay. Now, if we do not know what the savings would have been — and there would have been some savings, arguably — why would we support a change from 8 back up to 16?

Mr. SCHRODER. Mr. Speaker, what we did know about that is that it seemed to impact the—

The SPEAKER. Mr. Schroder, would you please yield.

Sergeants at Arms, take it upon yourselves to invite the many people behind the rail outside of the chamber, and continue to do that, if you please.

I apologize. Mr. Schroder.

Mr. SCHRODER. Mr. Speaker, what we did know about that is we believed it would have helped some of the higher paid specialists at the expense of the general practitioner, the family practitioner, and those who are lower paid.

Mr. GANNON. Now I am really confused here, Mr. Speaker, because— I mean, I am bewildered; I need some help. I am trying to figure out, we are trying to save premium dollars for the neurosurgeons who are leaving our hospitals, as has been pointed out by a prior speaker, and we cannot quantify this amount of reduction going down to 8 but we know there is a reduction for those neurosurgeons, those orthopedic surgeons, those OB-GYN folks, and those baby doctors, yet we go up to 16, we go back up to 16, because now we know that the family doctors were going to have to pay some more. What number are we talking about? Under the 8, how much more would they have to pay, and under the 16, how much less would they have to pay, bearing in mind that the family doctor's premium is running somewhere between \$6,000 and \$9,000 a year and the neurosurgeon's premium is running somewhere in the neighborhood of \$125,000 a year?

Mr. SCHRODER. Mr. Speaker, as I believe I said, at least I do not have those exact figures. There were many members in discussing this today who thought that that was an unfair impact on the general practitioners, and that seemed to be a consensus that developed, at least in some quarters, to change that, plus I would point out that certainly you are correct, we are trying to save, really, for all classes of folks in medical practice, and you know,

we believe that there are savings in there, certainly in other aspects of the bill, that would do that.

Mr. GANNON. So what you are telling me is that it was more important that the family practitioners not have to pay a couple of hundred dollars more at the most, assuming that that was the right number; that that was more important to us than the neurosurgeon, the orthopedic surgeon, the OB-GYN, the baby doctors, trying to give them a break or a reduction on their \$125,000 premium, to the point that they are leaving Pennsylvania. I do not know of any, unless you could point out where we are being threatened that family doctors are leaving Pennsylvania, but I have heard a lot of argument that they are, and I am just trying—

The SPEAKER. Mr. Gannon, ask questions. You are starting to debate, and I do not want that to get out of hand. It is 20 of 10, so ask your questions, and then debate, if you please.

Mr. GANNON. Thank you, Mr. Speaker.

The SPEAKER. Mr. DeWeese, I have called attention to Mr. Gannon. Do you think he is going to listen to me?

Mr. Gannon.

Mr. GANNON. Thank you, Mr. Speaker.

Mr. Speaker, the amendment that was placed in the bill by the House Rules Committee eliminated something called joint and several liability, and once again, I am a little confused as to why we would advance something that would protect the foreign manufacturers of defective products against Pennsylvanians who are injured as a result of that defective product. Why would we want to do that, relieving them of the liability under this, eliminate this joint and several? What is the rationale for relieving that foreign manufacturer from responsibility?

Mr. SCHRODER. Mr. Speaker, to the extent that noneconomic damages exceed \$1 million, Mr. Speaker, they are held responsible for their proportional fault. I do not know that it is accurate to say that they are going to be necessarily relieved of liability, certainly not in every case or even most cases.

Mr. GANNON. Well, Mr. Speaker, would it be fair to say that in commerce, particularly in products that are manufactured abroad, for example, maybe manufactured in some sweatshop in Southeast Asia where they have got 12- and 8-year-old kids working the assembly line, that when those products come into the United States, they are fairly complex commercial roots, and that a person who would purchase that product from a Pennsylvania company, for example, not knowing that it was defective when it was purchased and suffering an injury, why would we want to protect that manufacturer who was, say, let us say he was 90 percent negligent and yet because he is offshore and because the injured plaintiff cannot reach out and get to that party but the defendant or the person who sold the product could, why would we insulate that foreign manufacturer, that Southeast Asian sweatshop, from being able to go after them to recover?

Mr. SCHRODER. Well, Mr. Speaker, it would seem to me that if the defendant could get to that offshore sweatshop manufacturer, the plaintiff would certainly have jurisdiction of the courts to get at that particular defendant also.

Mr. GANNON. Mr. Speaker, that is questions on the amendment inserted by the House Rules Committee, I believe, but one other item in here is informed consent, and in reading the informed-consent language, I note that informed consent with respect to prescription medications is not included in there, and do you know why? Particularly when we have particularly older folks who are taking multiple medications, the doctor, under this proposal, is not required to explain, as I read it, to the patient some

of the consequences and interactions of those medications, because they are specifically left out of the informed consent. What was the rationale for leaving medications out of the informed-consent requirement? Do you know?

Mr. SCHRODER. Well, Mr. Speaker, you know, I believe we are talking about the amendments that were inserted here, and since my belief is that that was never there in the first place, so I do not know that any change has been made either by the Senate or by the Rules Committee earlier this evening.

Mr. GANNON. Mr. Speaker, getting back to this joint and several – I just want to touch on this one bit, and maybe you can help explain how it would be done – where you have an automobile accident – and from what I have been told, this language goes beyond medical malpractice and is now expanded to any type of negligent conduct – where you have an automobile accident involving multiple impacts, how would that work in apportioning the liability of the defendants where there were multiple impacts, some of which may have been more serious in injury to the plaintiff than others? How does that work under this joint and several language?

Mr. SCHRODER. Well, if the noneconomic loss is over \$1 million— I take it you are going under that scenario. Is that correct, Mr. Speaker?

Mr. GANNON. Correct.

Mr. SCHRODER. Okay. It would work – I do not mean to be glib about this – it would work the way it does in virtually every other case where they have a comparative fault system. The jury would apportion liability to each of those defendants based upon the facts that are introduced in the case, and they would be instructed by the judge to assign fault on a percentage basis, and then those defendants would be responsible for paying the judgment pursuant to their percentage of liability.

I am trying to answer your question. Maybe I am not understanding what—

Mr. GANNON. Would the plaintiff be required now to show the court what the percentage responsibility was for each defendant as opposed to now where the plaintiff simply has to show that one or all of those defendants caused the negligence and it is up to the defendants to determine the percentage of liability? How would that work now that we have shifted that burden to the plaintiff to do that apportionment and argue and demonstrate what that apportionment is? How would that work now, particularly where there are multiple impacts and extremely serious injury?

Mr. SCHRODER. Mr. Speaker, I do not believe we have shifted that burden to the plaintiff to come up with the actual, you know, apportionment of liability on multiple defendants. The plaintiff would be required and have their burden of proof in explaining the facts that happened and bringing out the facts and the conduct or the negligence of each of those parties, and then it would be the jury, pursuant to instructions given by the judge, that would make that determination.

Mr. GANNON. Thank you, Mr. Speaker.

That is all the questions I have. Thank you very much.

The SPEAKER. Mr. Gannon, you have completed your interrogation. Are you going to make remarks?

Mr. GANNON. Just some brief remarks, Mr. Speaker.

The SPEAKER. The gentleman is in order.

Mr. GANNON. Mr. Speaker, we have done a couple of very dramatic changes to this bill as amended by the House, and now we are being asked to send it over to the Senate, where it will sit

for at least 4 or 5 weeks before the Senate would take any action on it. And what we have done, we have taken something that I think was very beneficial to the physicians who are seeking relief, and that is what I was told this was all about, to try to help the neurosurgeons and the orthopedic doctors and the baby doctors and the OB-GYN doctors, to try to help to get them some premium relief, and we had a specific provision in there that gave them some premium relief as it was sent over by the Senate, and the House has now seen fit to look the doctors in the eye and say, no, we are not going to give you that premium relief; you can continue to leave those hospitals, as was pointed out by a prior speaker; we do not care; we are not going to do anything immediate about helping cut the cost of your malpractice insurance, which we could do by leaving that classification at 8 instead of taking it back up to 16.

We have also put a provision in there that does away with joint and several liability, and in a products liability case where someone has been seriously injured by a product manufactured offshore, what we have essentially done is we have protected that foreign manufacturer, and you know, some lawnmower manufactured in some Southeast Asian sweatshop where the blade is defective and it cuts off somebody's foot, they are literally protected, they are insulated, because of this elimination of joint and several liability. And you may say, well, how would that be? That does not make sense. Now, think about it. You go down to Sears and you buy a lawnmower. It is made someplace in China. I do not want to use a specific country, but it is made in some Southeast Asian country; you do not know where. And somebody is seriously injured, and they go back to the place that they bought it and say, you know, the law says that the seller is liable for this injury, and Sears says, no, that company offshore is. And you say, well, I do not care about that company offshore; I do not know who that is; I bought it from you. And you file a lawsuit. You do not know who the company offshore is. Maybe you cannot even get service of your complaint on that offshore company, but maybe Sears can, because they deal with the agent; they deal with the wholesaler, the retailer, the distributor. There is a whole line of people involved in the sale of those products until they get to the ultimate person, the consumer, who is seriously injured. And what we are doing is, we are saying, no, maybe Sears is only 10 percent liable or the seller is only 10 percent liable and that is all you are going to get; you want the other 90 percent of your damages, get in a boat, go across the Pacific, and find them, and good luck. And that is what we are doing. Should that not be the responsibility of the person who sold that product to that customer and made that profit? Should that not be their responsibility to go get that money, not the person who has lost their leg because of a defective product?

Mr. Speaker, there is one other issue that concerns me very much in this bill, and that is the issue of doing away with the right of subrogation, or the collateral source, as it is called. "Collateral source" is like an evil word. My gosh, the court is applying a collateral source rule, and you know what? I have got to pay that son of a gun's medical bills for all the medical treatment he had to get because of the injury that I caused him; that is not right; he has got insurance; let his insurance company pay; I should not have to pay. And you know what? We are agreeing with that. We are saying, you know, that is the way it should be. Why the heck should the person who caused that horrific injury, why should they have to pay the medical bills when that son of a gun that has filed the lawsuit has his own medical insurance? And we said, you are

right, so we have eliminated that. We said, we are not going to have any right of subrogation here; go to your own insurance company and get your bills paid.

But a lot of people do not have the luxury of the nice insurance that we here in the House do. You know, they are scrimping and they are saving their paycheck, and they are looking at their health insurance, and you know, they want to protect themselves against a catastrophic illness, and they go out and buy a policy that does that. They cannot afford the Cadillac, they cannot afford the Lincoln Continental of health insurance. They have got to go out and buy the Ford or the Chevy. And one of the provisions you usually find in that type of policy is a lifetime benefit, and it says, you know, we are going to provide health insurance for a certain amount of money, and as you require health care, we are going to take down the amount of health insurance that we are going to provide to you until it is all gone, and then we are done; we are not going to do it anymore. And if you have somebody who has had a catastrophic illness as a result of the negligence of another person, a physician, if you will, who cut the spinal cord or cut the carotid artery and denied oxygen to the brain and put you into a coma, maybe took your IQ from 140 to 10, and your health insurance is paying that, and as they are paying that, they are taking it down; your benefits are being depleted. And then what happens when they are all gone? What happens to your family when they need medical care? Your little girl is sick or your little boy gets sick or your wife gets sick and they call up the doctor, and the doctor says, well, no, your benefits are gone, because we spent down, taking care of that person that was injured as a result of that negligence.

I think that is a serious problem, Mr. Speaker, and I do not think this was well thought through when we decided to get into the back pockets of this and get into the feeding frenzy and the hysteria that has been created by a lot of doctors, threatening to leave the State. We had a hearing in my committee this morning – which should have been well attended; I was really disappointed the number of people that did not show up – and the numbers from government agencies that keep track of those numbers, they do not track with what we are being told. Why, in one of the counties, we were being told the doctors were leaving in droves. When we talked to the guys that keep track of the numbers, the number went up by 100. Something is wrong here; something is wrong here. And we are making public policy on that type of misinformation? Something is not right.

You know, the piranha is an interesting fish. He eats until his victim is gone, and if you wade into some areas of the Amazon River and you start to feel those little nips against your skin, you are in deep trouble. And then they start to get more intense and all of a sudden start bigger chunks, and all of a sudden you are the victim of a feeding frenzy. And they do not stop when they are full; they just keep on eating until it is all gone, because they do not know when they are going to see another meal, when somebody is going to be foolish enough to go into that river.

And what we have here is a feeding frenzy; we have a feeding frenzy, and we should be ashamed of ourselves for acting and making public policy that is going to have long-term impact. And I do not say positive long-term impact; it is going to have negative long-term impact.

And who is the victim of that feeding frenzy? Is it the trial lawyers? They are not the victims. They will find something else to do. They will still make their money. Is it the insurance companies? They have been left out entirely. They are ready to

break open the champagne bottles with all the money they are going to make on this. Is it the doctors? Certainly not. That is what we are told we are here for; we are here to help the doctors. Yeah, we have just had explained to us, we took one provision out of the bill that did help the doctors immediately. We had testimony this morning that if we did experience rating on the CAT Fund, we would see an immediate 25-percent reduction in the premiums paid by orthopedic surgeons and neurosurgeons who are leaving hospitals in Pennsylvania. But we rejected that. We cannot do that; the insurance companies might get upset.

So who is the victim of the feeding frenzy? It is those folks who are maybe lying in their beds right now with the spinal cord being cut. Maybe they just look at the TV with a blank stare because oxygen was denied to their brain for so long because of a negligent incision and they bled so much; they just have a blank stare and are just wondering what is going on. They are the victims of the feeding frenzy.

And we should be ashamed of ourselves for participating in that feeding frenzy, for getting caught up and letting ourselves get caught up in that hysteria and inflicting this type of measure on the people of Pennsylvania, because it does; it affects all 12-million-plus citizens of the Commonwealth of Pennsylvania. Maybe not today, and there are plenty of people out there. Somebody out there is watching this today, and they are probably bored stiff, and they are saying, well, this does not affect me. But it might tomorrow, it might the next day, and then, and then they are going to feel the impact of what we are doing here tonight.

I ask for a “no” vote on this bill. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

VOTE CORRECTION

The SPEAKER. The Chair recognizes the gentleman, Mr. Freeman, who asks that the record reflect that his machine was inoperative at the time of the vote on suspension of the rules, and had it been operating at that time, he would have voted in the affirmative.

All right, Mr. Freeman?

Mr. FREEMAN. Thank you.

CONSIDERATION OF HB 1802 CONTINUED

The SPEAKER. The Chair at this time recognizes the lady, Mrs. Vance.

Mrs. VANCE. Thank you, Mr. Speaker.

I am neither a trial attorney nor a physician. I do not stand here to speak for either special interest group but to speak for somebody that I think we have forgotten tonight – the patients, our constituents.

We have talked a lot about things that we did not like coming out of the amendment in the Rules Committee. I would like to talk to you about several things that really benefit our patients that we have really overlooked so far tonight.

I would like to draw your attention to the patients’ charts. There are very, very important provisions in here that say that charts, if they are changed, have to be initialed and signed. They cannot be altered. They cannot be later destroyed. You cannot have diagnostic specimens and slides that are destroyed. And there are many penalties that are inherent in this. This protects the patients. We have forgotten to talk about that. This is a real plus.

There has been some talk earlier about collapsing some of the rates, and we said, well, gee, we thought we were here to protect the neurosurgeons and the orthopods. I think I would like to ask you, whom do your constituents see? They see your family doctor. Maybe some of them in their lifetime may see a neurosurgeon or they may see an orthopod, but most likely, on a day-to-day, everyday basis, the family doctor is the one who sees our constituents and who cares for them.

The way that the bill came back from the Senate, these family doctors would be paying higher rates in order to sustain the very high specialists. Is that fair? Of course it is not. I understand that the specialists are paying higher rates, but they are making much, much higher salaries.

The first line of defense in any medicine is the family doctor, the one that our constituents rely on every day. We need to stop talking about this special interest group and that special interest group and get back to what really matters, protecting our constituents.

I ask for a “yes” vote. Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the lady.

The Chair recognizes the gentleman, Mr. Feese.

Mr. FESE. Thank you, Mr. Speaker.

Mr. Speaker, 2 weeks ago I voted to support our physicians and I voted in favor of HB 1802. Tonight, 2 weeks later, I vote for the opportunity to support our volunteer fire companies, and I will vote against HB 1802.

Three hundred and seventy million dollars, the administration has indicated, is available from the automobile Catastrophic Loss Fund. The administration has indicated that this money can be used to subsidize negligent physicians. I believe that if we weigh the equities of using this money for negligent physicians or we use this money to support our volunteers, the equities clearly favor our volunteers.

Our volunteers do just that. They give countless hours of their time, energies, their talents and their resources, to protect us. They risk their lives without any hope of remuneration. Clearly, the equities weigh in that favor.

The administration has indicated that we may use these funds in the Catastrophic Loss Fund, the automobile Catastrophic Loss

Fund, and I, for one, will vote to use them for my volunteer fire companies.

Thank you, Mr. Speaker.

The SPEAKER. The gentleman, Mr. Turzai.

Mr. TURZAI. Thank you, Mr. Speaker.

I applaud Mr. Schroder and the House leadership. You have taken the lead on lawsuit abuse and put together a significant step by adopting commonsense reforms. You have shown the guts to tackle real reform.

The proposition that the Senate version offers meaningful reform is off base. Just a few weeks ago, when we voted for HB 1802, including the amendments, over 160 members voted for that bill. Now, let us look at the bill that everybody voted for and look at what has come back. A defined statute of limitation – gone. Then you limited to where the alleged malpractice act occurred – gone. A provision akin to Federal rule 11 to prevent the filing of frivolous claims – gone. Elimination of joint and several – gone. Dismantling of periodic payments provision and reduction to present value provision such that it was almost nothing; caps on noneconomic damages – gone.

This body also passed with over 140 votes SB 406 in an

amended version that provided anti-frivolous-lawsuit litigation, and we have not received that bill back from the Senate. There is lawsuit abuse. There are far too many frivolous claims, far too many nuisance settlements, and professionals, doctors, nurses, and others are tired of being second-guessed in a court of law.

Medical errors – is that the issue? Are you here today indicting your local physicians, nurses, and community hospitals? Are you saying that there is an epidemic of medical errors in your community, or is that a fabricated issue, some ruse to stop real reform?

This bill does not do anything to prevent truly injured persons from suing truly negligent defendants for reasonable damages. Those lawsuits will continue. What we are looking to get rid of are the frivolous claims where every single person on a chart gets named in a lawsuit and with every potential claim that anybody can think up.

The fact of the matter is, the amendments do not go far enough but they are commonsense and they are practical. The changes offered by the Rules Committee are these: You have a present value reduction with respect to awards – noneconomic damages, lost wages, and then periodic payments for future medical bills. There is not a single organization that would not present-value the awarding of a future dollar amount. That is a commonsense provision. And with respect to joint and several liability, the fact of the matter is, you are only held responsible for that percentage that you have been found causally responsible for. That is a fair provision. And what we are putting in has about a \$1-million cap on that particular provision.

I rise in support of the concurrence and what has been placed in by Mr. Schroder and the Rules Committee, and I urge your vote for it.

The SPEAKER. The Chair thanks the gentleman.

The Chair recognizes the gentleman from Delaware County, Mr. Adolph.

Mr. ADOLPH. Thank you, Mr. Speaker.

I also rise to applaud Representative Schroder for his outstanding job tonight and several weeks ago.

The bill that we sent over a couple weeks ago to the Senate was a wish list of tort reform laws as well as patient safety laws, as well as reform to our CAT Fund. I think everybody here realized that some of those issues were not going to become law.

Every public forum that I attended in Delaware County over the last 6 months, the doctors and the hospitals, the two main tort reform issues that they were concerned about were venue, venue, jurisdiction. I must have heard that a thousand times. In addition to that, in addition to that, I heard from our hospitals, I heard from our hospitals constantly, we must do something, we must do something about joint and several liability; we must repeal that.

We in Delaware County had a hospital that had been operating for 40 years close in December. The headline read, “Medical malpractice rates caused Mercy Haverford to close.” When this bill came back from the Senate last night with no debate, no discussion – and I applaud our leaders here on both sides of the aisle for the opportunity to discuss this issue – I contacted the administration of five hospitals in Delaware County, sent them a copy of what the Senate passed. This is Crozer-Chester Medical Center. This is Springfield Hospital. This is Delaware County Memorial Hospital. This is Taylor Hospital. Can you live, can you stay open, with what the Senate passed last night, without a debate, without a discussion? Absolutely not. They must have joint and several; we must repeal joint and several liability.

Do not kid yourselves. I understand and I respect the job that the minority leader of the House is doing, the loyal opposition; I respect that. But he is not kidding anybody; he is not kidding anybody.

The gentleman from Luzerne County talked about the terrible, terrible deal about the \$250,000 contractual agreement. That is out of here; that is out of here. Also, it was never a maximum of \$250,000, so if you are going to say something was wrong, you might as well say what it really said. It started at \$250,000.

Now, this bill that we are going to concur on tonight is not going to become law; I agree with you. But it keeps the process going; it keeps the process going. It is going to go back to the Senate to address some of these issues. These issues are needed.

I heard that some of the things that we did in our amendment—I have letters from the Delaware County Medical Society here saying please amend the Senate version. I do not have one letter in here from any of the hospitals, from any of the doctors, anywhere, saying pass the Senate version. Please produce me some letters from some doctors saying pass the Senate version, please. Whom are we kidding over there?

I urge you to concur with HB 1802.

THE SPEAKER PRO TEMPORE (PATRICIA H. VANCE) PRESIDING

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes the gentleman from Beaver County, Mr. Veon.

Mr. VEON. Thank you, Madam Speaker.

Madam Speaker, I rise, of course, to oppose concurrence and have listened intently to the debate here today, particularly from the Republican side of the aisle, and I did notice, Madam Speaker, that member after member on the Republican side did make the point that this bill does nothing to prevent injured patients from suing. Member after member said that, and, Madam Speaker, I would have to concede, it does nothing to prevent injured patients from suing in the State of Pennsylvania. The problem with this bill, Madam Speaker, is that it does not allow them to win any of the suits.

Madam Speaker, a number of members on the Democratic side, I think, have done a very good job in articulating a variety of reasons to be against this bill. I just want to focus briefly but strongly on the issue of joint and several liability. We started out with a bill— Let us assume that everything that the Republican members have said here today is true. Bringing in a sneak attack at the last moment on 100 years' worth of civil justice, civil justice litigation, by inserting this provision on joint and several liability is incredible.

Madam Speaker, I did hear the gentlelady from Montgomery County who held up a letter and talked about the Pennsylvania Chamber of Commerce and their 10,000 members who are now, not surprisingly, in support of this bill. So I want to make sure that for the record I hold up the letter from my friend, my partner, my fellow Beaver Countian, Mr. Bill George, and the 1 million members of the State AFL-CIO who strongly oppose this bill, and you will note that until today, they were not involved in this debate, not involved in this issue.

The insertion of language to destroy 100 years of joint and several liability law in this State is a direct attack on working people in the State of Pennsylvania, and the 1 million members of the State AFL-CIO have a letter strongly in opposition to this bill here today. This is a cornerstone, keystone issue for the union

members in the State of Pennsylvania, and, Madam Speaker, I do not blame them at all, because I will just give you one example and make sure that the people in this State understand what we are passing here today.

Forget everything else about medical malpractice for the moment. Let us just assume that you had a structure in your town that collapsed. Let us just assume that workers on that jobsite were in fact injured, and let us assume for a moment that you had a piece of machinery on that jobsite that clearly was and is defective, and a jury said, yes, that piece of machinery was defective. Let us assume for a moment that you had a distributor who set up that piece of machinery on that jobsite. A number of workers were killed; a number of workers were injured. And the jury says that, yes, that was a defective piece of machinery and that distributor set it up wrong. That distributor, the jury says, is 70 percent liable, and the owner of that piece of machinery, that crane on that jobsite, is 30 percent liable.

Under this provision that we would pass here today, that bankrupt distributor has not a dime that any of those injured workers can collect, not a dime, out of business, bankrupt, gone. Under this provision we are passing here today, that injured worker, those injured workers, innocent of anything but going to work in the morning, trying to do the job that they do every day, that injured worker could only recover 30 percent of what that jury has awarded them. That is what this provision is.

It is not surprising that the State AFL-CIO is opposed to this. It is not surprising that working people in Pennsylvania, I think, will stand up and reject this provision once they know that it is in this bill, Madam Speaker.

Madam Speaker, I am confident that for the vast majority of the members, certainly on the Democratic side and I hope for some members on the Republican side, that that provision alone is enough to reject this bill here today. There is no reason to put a provision dealing with joint and several liability in a medical malpractice bill, not just dealing with medical malpractice but dealing with every single area of tort law in this State, on product liability, on environmental law, so that people who have toxic dumpsites in their neighborhoods could not fully recover what they would be awarded by a jury; consumer law dramatically affected, and, Madam Speaker, that should not be in this bill. It is reason enough—

THE SPEAKER (MATTHEW J. RYAN) PRESIDING

The SPEAKER. Mr. Veon, “Madam Speaker” has stepped down. I am back.

Mr. VEON. Mr. Speaker. It is reason enough to oppose this bill.

MOTION TO RECOMMIT WITH INSTRUCTIONS

Mr. VEON. Mr. Speaker, hopefully to accomplish that goal of removing joint and several liability, that language from this HB 1802, I would like to make a motion to recommit this bill to the Rules Committee with the instruction that all of the amendments inserted in the Rules Committee today be removed from HB 1802, and I would make that motion for that recommittal with those instructions at this time, Mr. Speaker.

The SPEAKER. The House will be at ease a moment.

The House will come to order.

The gentleman, Mr. Veon, moves that HB 1802 be recommitted to the Rules Committee with instructions that that committee remove the amendments earlier placed in the bill by the Rules Committee. Is that correct? Did I say that correctly?

Mr. VEON. That is correct, Mr. Speaker.

On the question,

Will the House agree to the motion?

The SPEAKER. On the question of that motion to recommit, do you desire to speak on the motion?

Mr. VEON. Yes, Mr. Speaker.

PARLIAMENTARY INQUIRY

Mr. S. SMITH. Point of parliamentary inquiry, Mr. Speaker.

Mr. Speaker, can a motion be made that refers a bill to committee with specific instructions such as that? Is that type of motion actually in order, Mr. Speaker?

The SPEAKER. It is in order.

Mr. S. SMITH. Thank you.

The SPEAKER. That is why I put the House at ease for a moment, to doublecheck that point myself.

Mr. Veon.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, I made my case as to why this sneak attack on workers, environmental law, consumers, homeowners, shareholders, employees ought to be removed from this bill. I think it is a compelling case.

There are a number of members here, quite frankly, Republicans and Democrats, who have said that they do want to solve the medical malpractice issue in this State, and certainly

there are Democratic members who have voted that way before on this floor.

This provision on joint and several liability is intolerable. It has nothing to do with medical malpractice. It ought to be excised from HB 1802. Let us recommit the bill with the instructions to do just that.

Thank you, Mr. Speaker.

The SPEAKER. I am going to put the House at ease for a moment. Another question has come up in connection with this.

So you understand what it is we are doing, the question arises whether a motion can be made such as the one made by the gentleman, Mr. Veon. Ordinarily, it could be made. When we go the second step and instruct the committee to make an amendment, the question occurs to me and to the Parliamentarian, are we in a situation where a suspension is needed? I am not sure of that answer, but if you will give us a couple of minutes, we will rule on it. The question really being, can you do by indirection what you cannot do directly? You could not amend right now without a suspension of the rules. Can you bypass that requirement of our rules by sticking it back into a committee with instructions? Now, just give us a little bit of time.

MOTION RULED OUT OF ORDER

The SPEAKER. The House will come to order.

It is the ruling of the Chair, Mr. Veon, that you are not able to

move to recommit with instructions, and the Chair is relying on Jefferson's Manual. This is somewhat unique.

Let me try to explain as best I can the reasoning behind my ruling. My first instincts were to permit this, because there is no question but that a motion can carry to recommit something to a committee or to give a committee instructions. I do not have a problem with that. It is very, very seldom done, infrequently done. In the years I have been here, I have seen it attempted maybe half a dozen times.

The part that bothered me, and I caught myself on it after my first initial reaction, was, can we do something by indirection that we cannot do directly? Apparently there is some support for the proposition – and I cannot find anything to the contrary – that you cannot.

Now, what am I talking about? I am saying this: that the position of the matter that is before us is a bill back from the Senate on concurrence. To amend a bill on concurrence requires a suspension of the rules. Can you then get around that by sending it to a committee on a simple majority vote and instruct them to do something that you could not do on the floor? I mean, that is the nub of the problem; in other words, tell the committee to do it without suspension of the rules.

The manuals that we rely on for guidance, and I am referring now to Jefferson's, section 788, "It is not in order to propose as instructions anything that might not be proposed directly as an amendment..." I do not have the rest of the context of this rule. That is all it says, and it cites something that we do not have.

Further on, "...a motion to recommit with instructions to incorporate an amendment in the restricted title..." is not allowed, and I am drawing an analysis to that with the instructions that you have, which, essentially, is to amend the bill when it goes back into the Rules Committee. And again, I go back to the first statement, which is trying to do by indirection what you cannot do directly. Given enough time, we could do more research, and I would like to know the answer to the question, but initial research we come up to this.

Now, it is not my intention – I see Mr. Cohen coming to the forefront – it is not my intention nor has it ever been the intention of any Speaker to debate these issues. The question really then becomes, if you disagree with this ruling, you have the opportunity to appeal the ruling of the Chair, and I suspect that is what Mr. Cohen will do.

PARLIAMENTARY INQUIRY

Mr. VEON. Point of parliamentary inquiry, Mr. Speaker.

The SPEAKER. Mr. Veon.

Mr. VEON. If it would be appropriate, if I could— If it would be appropriate, I would like to defer to the gentleman, Mr. Cohen, for this point of inquiry.

The SPEAKER. Mr. Cohen? Yes, indeed.

Mr. COHEN. Mr. Speaker, point of parliamentary inquiry.

Have you and the Parliamentarian looked at section 620 of Mason's Manual, which is "Instructions to Committees"? Section 620 says in the first paragraph, pages 444 and 445 of Mason's Manual, "When a question is referred to committee it may be referred with instructions or without." The second paragraph says, "When a committee receives specific instructions, they must be accurately carried out." And that "A motion..." in the fourth paragraph, "A motion to refer a bill to committee may be amended by adding instructions..."

The SPEAKER. Mr. Cohen, yes. And I said I thought very clearly that there is no question in my mind that a bill can be recommitted with instructions, but this particular matter that is before us is before us on concurrence, which on the floor requires a two-thirds vote. If this was not on concurrence, if this was a Senate bill over here and you wanted to do what you have suggested to be done – send it back to committee with instructions that they insert the amendment – I do not have a problem with it. The problem I have is that to do it, to do it in the ordinary course of business requires a suspension of the rules under our rules, and to allow any member, not you, not Mr. DeWeese or Mr. Veon, to allow someone to evade that by recommitting it with instructions that requires less than the two-thirds vote of the members, I am bothered by it, and I am ruling that you cannot do it.

I agree wholeheartedly with the notion that you have pointed out in our rules that you can give instructions. I have never questioned that. The problem is, if a suspension is required to do it here on the floor, can you send it somewhere where it is not required? And I am ruling that you cannot.

PARLIAMENTARY INQUIRY

The SPEAKER. Mr. Pistella?

Mr. PISTELLA. Yes.

Mr. Speaker, I—

The SPEAKER. For what purpose do you rise?

Mr. PISTELLA. A parliamentary inquiry.

Mr. Speaker, I listened very closely to the explanation that you had given us as to why we cannot follow through with this particular motion, and listening to your explanation, as I understand it, you are saying that this House cannot send back to a committee with specific instructions that would require a suspension of the rules to take action to adopt a portion of the motion that is being made.

My question, Mr. Speaker, is, does the Rules Committee have the ability to suspend the rules of the House to allow it to amend this bill in committee, which it saw fit to do earlier today, which would appear to be in direct contrast to the rules and your ruling, Mr. Speaker?

The SPEAKER. The Rules Committee is authorized, under our rules, to amend a bill that is back here on concurrence. The problem comes up is, when we are here on concurrence— Now you have got me confused. Let me doublecheck myself.

Mr. PISTELLA. I understand, sir.

The SPEAKER. The Parliamentarian draws a fine line, Mr. Pistella. The Rules Committee has the right, under our rules, to amend anything that is in its committee. However, the amendment on concurrence is on the floor of the House, which requires a suspension of the rules. So it cannot be removed from the floor of the House and then sent back to the Rules Committee with instructions to change it without a suspension of the rules; suspension of the rules, two-thirds.

Mr. PISTELLA. So what you are saying then, Mr. Speaker, is that the Rules Committee can in fact take action that the full House cannot take under these circumstances.

The SPEAKER. Yes, yes. I am saying that; yes.

Mr. PISTELLA. And that is under these circumstances only, Mr. Speaker? And when I say “these circumstances,” let me be clear what we are talking about now is a bill that has come from the Senate that has been amended—

The SPEAKER. I understand the circumstances.

Mr. PISTELLA. Yes.

The SPEAKER. We are referring to rule 30. I am going to try and get you a direct quote on it.

The last sentence in rule 30 of the first paragraph permits the Rules Committee to amend anything that is before them including something back on concurrence. The further part of rule 30 states, “The House shall not consider any proposed amendment to any amendment made by the Senate to a bill or joint resolution, nor consider any amendment to any amendment made by the Committee on Rules.” Now, we can suspend that rule, and that is the problem we have right now. That rule says you cannot do it, but you can suspend the rules.

Mr. PISTELLA. Okay. So that I am clear then, when the bill came over from the Senate on concurrence in Senate amendments, the rules provide that the Rules Committee could go ahead and unilaterally take action to amend it.

The SPEAKER. Yes, rule 30.

Mr. PISTELLA. And the same rule provides that even though the Rules Committee has now amended the bill with House amendments, it now takes two-thirds vote by the full House or action by the Rules Committee to amend it again.

The SPEAKER. Once it is on the floor.

Mr. PISTELLA. Once it is on the floor. Thank you, Mr. Speaker.

The SPEAKER. Mr. Veon, parliamentary inquiry.

Mr. VEON. Mr. Speaker?

The SPEAKER. For what purpose do you rise?

Mr. VEON. I rise to amend my motion.

The SPEAKER. The gentleman is in order. Go ahead and proceed.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, I have listened to your argument, and I think that a fair case can and had been made, could be made, and then to some degree I think has been made by some of the members here, but obviously, we want to accept the ruling of the Chair at this time, and hopefully, this is an issue that we can explore at some greater length and in greater depth at another time.

The SPEAKER. I assure you that before we return, it will be well researched.

Mr. VEON. Thank you, Mr. Speaker.

MOTION TO RECOMMIT

Mr. VEON. Mr. Speaker, for the purpose, hopefully, of accomplishing the goal, I would like to amend my motion, and I would like to move to recommit this bill to the Rules Committee with the very strong recommendation that the Rules Committee remove the language dealing with joint and several liability. Mr. Speaker, I say again it is not necessary; it is not useful to this debate. It is divisive on the issue of medical malpractice or finding a reasonable solution to medical malpractice.

Again, not me, but many Democrats have supported the medical profession, the Hospital Association, in their efforts. Even though I personally strongly disagree with their position, there have been a number of Democrats who have supported those provisions.

Mr. Speaker, many of those same Democrats do not want to and I think most of those Democrats cannot support language like the language we have in this bill dealing with joint and several liability. It is not fair and it is not right for innocent injured

workers; it is not fair, it is not right for innocent injured shareholders; it is not fair, it is not right for people affected, innocent people affected by hazardous toxic wastesites.

If this House wants to debate product liability and we want to have a full-scale debate, then let us have that debate on product liability on the floor of the House, in the open, with foresight, with forethought, not on a sneak attack on medical malpractice changing, again, a century's worth of civil litigation in this State.

Mr. Speaker, I would like to move to commit this bill, recommit this bill, to the Rules Committee, and I would hope that that motion, if successful, would reflect, strongly reflect, the desire to get on with the debate on medical malpractice and remove this very onerous language dealing with joint and several liability and product liability tort reform.

Thank you, Mr. Speaker.

The SPEAKER. The Chair thanks the gentleman.

On the question,

Will the House agree to the motion?

The SPEAKER. Mr. Perzel, on the question of recommittal to Rules.

Mr. PERZEL. Thank you, Mr. Speaker.

Mr. Speaker, twice today the Rules Committee has put the bill out in this form. We sent it back to committee to correct a small error that was in the drafting language, but twice we have sent it out in the form that you see it before you.

As the chairman of the Rules Committee, I cannot see any reason to change anything that we have in the bill if it were to be sent back to the Rules Committee. So for that reason I would ask a "no" vote.

I do want to say that if it does come back to Rules Committee, we will have to recess; we will have to have another vote on this bill; we will vote it back out, and we will continue with the debate that we are having right now, Mr. Speaker. So I think you are only wasting everyone's time by sending it back to the very committee where it has come out of twice.

So I would respectfully ask the members to vote "no."

The SPEAKER. The Chair thanks the gentleman.

On the question of recommittal, Mr. DeWeese, do you desire to debate this? The gentleman is in order.

Mr. Veon, do you have a moment?

Mr. DeWEESE. Thank you very much, Mr. Speaker.

The long, muscular arm of the American Federation of Labor, the Congress of Industrial Organizations of Pennsylvania was pacific, was on the margin, was not involved in this dialectic.

As important as medical malpractice premium rollbacks have been, labor – that word that resonates so historically through the corridors of Pennsylvania history – labor had been silent and labor would be silent tonight. The patients, the physicians, the attorneys, the insurance companies were grappling with each other, but labor had remained on the sidelines, and that does not happen all that often in our conversations, in our debates.

All of a sudden – and it has been enumerated again and again, so I will not interlard the debate one more time with another example – but in general, in general, that construction site where the crane collapsed, or that sweatshop in Southeast Asia where mechanisms were designed and built and brought to the United States and then caused irreparable harm to youngsters or our citizenry, these kinds of dilemmas, these kinds of tragedies, as the gentleman from Beaver, Mr. Veon, has declared, have been

confronted for decades and decades and decades by assigning joint liability, several liability, and labor decided tonight, when you brought this into the equation, to roar, to get involved, to hunker down, to make some decision to engage in the debate.

This debate tonight was supposed to be about medical malpractice. This debate tonight was supposed to be about rolling back the amount of money that doctors were paying for their malpractice insurance. It has transmogrified in the last several hours to be a debate on product liability. That is exactly why our friends, our brothers and sisters, in organized labor – and they have supported many of you; they have supported many amongst the rank and file of the Republican Party – you do not get a chance very often to stand by your brothers and sisters in labor. The impulses, the magnets that draw you away are not insubstantial, but tonight, tonight this is a crucial vote; this is a crucial vote.

Something very majestic and noble about the history of the American labor unions, and yes, their numbers are attenuated relative to their past, but their enthusiasms, their passions, and their accurate assessment of what is good for our commonweal remain, remain strong and unbesmirched.

Tonight, Mr. Speaker, you have a chance to vote to send this bill to the Rules Committee. If the majority leader's wishes come true, so be it; we will continue to debate. But my view is that if this is eliminated, labor says okay, and we pass the bill. The bill will probably pass as it is if this one amendment were to be removed. You are not going to remove it and then it is going to go back to the Senate and the epic struggle will endure. On and on and on a marathon debate will go for weeks and weeks and weeks.

You did not want to take our opportunity to revert to a prior printer's number and to utilize the measure that the Jubelirer-Schweiker administration sent to us last night; you did not want to do that. You did not want to roll back rates immediately. So now we are saying, okay. In fact, we had 106 votes, plus Mr. Freeman; 107 of us wanted to do that. We wanted to suspend the rules. If it were not for that skulduggery 6 years ago which changed the House rules and made us have 136 people for a suspension, we would have done it tonight, but skulduggery is skulduggery is skulduggery, and we needed to vote 136, but, Mr. Speaker, a majority of this House is not in favor, is not in favor of what we have done tonight, and we have a chance to send this back to the Rules Committee. Lobby my good friend, Mr. Perzel. Maybe he will see the beneficence of our argument, maybe he will excise it from the bill, and then this bill could go to the Governor for his signature.

The SPEAKER. The gentleman from Luzerne, Mr. Blaum.

Mr. BLAUM. Thank you, Mr. Speaker.

Mr. Speaker, as we all know, the gentleman, Mr. Veon, made a motion to recommit this bill to the Rules Committee to remove all amendments, and the Speaker's ruling did not let that happen. So the motion is now amended just to recommit it to Rules.

I want to take issue with what the majority leader said. He said it would have no meaning; he said it would have no purpose. I disagree. I think it would have a lot of meaning, because we are here tonight to try and lower the insurance premiums for doctors regarding medical malpractice. We can recommit that bill. He can report it back out, but the message it sends to physicians across Pennsylvania is that this House is serious; the message it sends to the people of Pennsylvania is that this House is serious; and the message it sends to the Pennsylvania Senate is this House is serious.

I think it has a lot of meaning. It has meaning to physicians; it

has meaning to the people of Pennsylvania; it has meaning to Representative Feese's volunteer firemen; it has meaning to a whole host of people to express the will when we are not barred by the huge hurdle of 134 votes to suspend the rules. This is simple majority.

Let us recommit this bill so we can have medical malpractice reform and send this bill to the Governor's desk, to remove these amendments, which are not going to become law anyway, and let us accomplish something for the good of Pennsylvania.

Mr. Speaker, this vote has a lot of meaning, and I ask that we vote to recommit it. Everyone knows, even though the instructions cannot be attached, everyone knows what the message is. Let us recommit it. Let us take these amendments out so we can send the bill to Governor Schweiker.

Thank you, Mr. Speaker. I urge the members for an affirmative vote.

The SPEAKER. The Chair thanks the gentleman.

The gentleman, Mr. Schroder, on the question of recommittal.

Mr. SCHRODER. Thank you, Mr. Speaker.

Mr. Speaker, I heard it said by a couple speakers that if we just take the joint and several liability language out of here tonight, that this bill will go to the Governor. Well, no, it will not go to the Governor, Mr. Speaker. The bill has been amended and amended in other ways. The Senate has adjourned, as far as I know. The bill is not going to the Governor no matter what we pass out of here tonight.

Furthermore, we need to keep in perspective what the joint and several liability provisions of this bill are all about. First of all, economic damages, wages, and medical bills – they are not subject to the comparative fault provisions of this. They are still subject to joint and several liability. Only noneconomic damages over the \$1-million mark are subject to the alternative comparative fault that we have in here.

Mr. Speaker, it has also been said, quite erroneously, that joint and several liability has nothing to do with medical malpractice. Mr. Speaker, that is simply not true. Ask your hospitals, ask any hospital out there the savings that they need and the way that they are hit under joint and several liability as it stands today, and it is very much a part of this bill. It needs to be a part of this bill.

Mr. Speaker, in its worst form, joint and several liability is nothing but a wealth redistribution scheme. When a defendant who is only 1 percent liable can still be responsible for paying 100 percent of a jury verdict, Mr. Speaker, that is grossly and gravely unfair. Yet that is what happens today, and that is why our hospitals need this protection, and that is why we must vote "no" to the motion to recommit.

The SPEAKER. Mr. Gannon, are you seeking recognition? I am not encouraging this.

Mr. DeWeese, Mr. Veon.

(Conference held at Speaker's podium.)

The SPEAKER. The House will come to order.

The Chair recognizes the gentleman, Mr. Perzel. Will the gentleman yield.

Mr. PERZEL. Thank you, Mr. Speaker.

The SPEAKER. Will the gentleman yield.

Members conversing in the vicinity of both the majority and the minority leaders' rostrums, please disband; staff people.

Mr. Perzel.

Mr. PERZEL. Thank you, Mr. Speaker.

Although I know that if this particular bill were sent back to the Rules Committee, we would be able to sustain the bill as it is, at that point in time it could be sent to any of the other committees in the General Assembly and this issue would die for a long time. I do not want to see that, and I do not think any member here wants to see that.

All right. What I am suggesting now is that we have an amendment drafted, which we have had drafted for quite some time, to take out the broader tort and keep the medical malpractice tort in the bill as we originally wanted to run the bill several weeks back.

So I guess I am making a motion, Mr. Speaker, to suspend the rules to add an amendment.

The SPEAKER. Will the gentleman yield.

It is my understanding of the amendment that the amendment removes the joint and several provision with respect to any tort actions other than medical malpractice actions. Is that accurate?

Mr. PERZEL. That is right, Mr. Speaker. You are correct.

The SPEAKER. Before we suspend the rules, it will be necessary for the gentleman, Mr. Veon, to withdraw his motion.

Mr. PERZEL. But we reserve the right to bring the other issue back at a future time, Mr. Speaker.

MOTION WITHDRAWN

The SPEAKER. Mr. Veon.

Mr. VEON. Mr. Speaker, I withdraw my motion at this time.

The SPEAKER. The Chair thanks the gentleman.

The members obviously saw that we were conferring up here, and what we are recommending, frankly, is that rather than send this bill back to Rules for an amendment, which could be done, it would then be necessary for us to take the time to reprint before we could pass the medical mal bill, HB 1802, finally. So it was determined that a motion would be made to suspend the rules to consider the amendment and then, presumably, pass it, and it would not be necessary to take the hour, hour and a half to print it.

RULES SUSPENDED

The SPEAKER. The Chair recognizes the gentleman, Mr. Perzel.

Mr. PERZEL. Mr. Speaker, I move that the rules of the House be suspended to permit the immediate consideration of amendment A0674.

On the question,

Will the House agree to the motion?

The SPEAKER. On the question of suspension of the rules for that purpose, solely for the purpose of considering A0674, those in favor—

Ms. Manderino, this is not a debatable subject.

POINT OF ORDER

Ms. MANDERINO. Point of order, Mr. Speaker.

My computer is showing that it is not available. Can you either tell us where we can access it and give us a minute to read the language before the vote is taken?

The SPEAKER. Let me find out the status of it.
 I am told, Ms. Manderino, that it should be on your screen right now. The people up here tell me it is on the screen. Ms. Manderino, I see it on the screens here.

The House will be at ease for a period of some 3 minutes to give you an opportunity to read the amendment and look it over.

On the question of suspension, those in favor of suspending of the rules for the sole purpose of considering A0674 will vote “aye”—

Do you desire recognition, Mr. DeWeese? Mr. DeWeese, you are recognized.

Mr. DeWEESE. I just wanted to support the gentleman, Mr. Perzel, and say that since we are going to take out joint and several for everything except medical malpractice, we consider this a very important vote. I wanted to support the gentleman, and I wanted to make certain that there was not any confusion amongst our ranks. Thank you very much.

On the question recurring,
 Will the House agree to the motion?

The following roll call was recorded:

YEAS—184

Adolph	Evans, D.	Maitland	Sather
Allen	Evans, J.	Major	Schroder
Argall	Feese	Manderino	Schuler
Baker, M.	Fichter	Mann	Scrimenti
Bard	Fleagle	Markosek	Semmel
Barley	Flick	Marsico	Shaner
Barrar	Frankel	Mayernik	Smith, B.
Bastian	Freeman	McCall	Smith, S. H.
Bebko-Jones	Gabig	McGeehan	Solobay
Belardi	Gannon	McGill	Staback
Belfanti	Geist	McIlhattan	Steelman
Birmelin	George	McIlhinney	Steil
Bishop	Godshall	McNaughton	Stern
Blaum	Gordner	Melio	Stetler
Boyes	Grucela	Michlovic	Stevenson, R.
Browne	Gruitza	Micozzie	Stevenson, T.
Bunt	Habay	Miller, R.	Sturla
Butkovitz	Haluska	Miller, S.	Tangretti
Buxton	Hanna	Mundy	Taylor, E. Z.
Caltagirone	Harhai	Myers	Taylor, J.
Cappelli	Harhart	Nailor	Thomas
Casorio	Harper	Nickol	Tigue
Cawley	Hasay	Oliver	Travaglio
Civera	Hennessey	Pallone	Trello
Clark	Herman	Perzel	Trich
Clymer	Hershey	Petrarca	Tulli
Cohen, L. I.	Hess	Petrone	Turzai
Cohen, M.	Horsey	Phillips	Vance
Colafella	Hutchinson	Pickett	Veon
Coleman	James	Pippy	Vitali
Cornell	Josephs	Pistella	Walko
Corrigan	Kaiser	Preston	Wansacz
Costa	Keller	Raymond	Washington
Coy	Kenney	Readshaw	Waters
Creighton	Kirkland	Reinard	Watson
Cruz	Krebs	Rieger	Williams, J.
Curry	LaGrotta	Roberts	Wojnaroski
Dailey	Laughlin	Robinson	Wright, G.
Daley	Lawless	Roebuck	Wright, M.
Dally	Lederer	Rooney	Yewcic
DeLuca	Lescovitz	Ross	Youngblood
Dermody	Levdansky	Rubley	Yudichak
DeWeese	Lewis	Ruffing	Zimmerman
DiGirolamo	Lucyk	Sainato	

Diven	Lynch	Samuelson	
Donatucci	Mackereth	Santoni	Ryan,
Eachus	Maher		Speaker

NAYS—15

Armstrong	Fairchild	Metcalfe	Strittmatter
Baker, J.	Forcier	O'Brien	Wilt
Benninghoff	Jadlowiec	Rohrer	Zug
Egolf	Leh	Saylor	

NOT VOTING—0

EXCUSED—2

Stairs	Surra
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A majority of the members required by the rules having voted in the affirmative, the question was determined in the affirmative and the motion was agreed to.

On the question recurring,
 Will the House concur in Senate amendments as amended by the Rules Committee?

Mr. PERZEL offered the following amendment No. A0674:

Amend Title, page 1, line 13, by striking out “PROVIDING FOR TORT REFORM;”

Amend Bill, page 40, by inserting between lines 15 and 16 Section 515. Joint and several liability.

(a) General rule.—Except as provided in subsection (b), when recovery is allowed in a medical professional liability action against more than one defendant, each defendant shall be liable for that proportion of the total dollar amount awarded as damages in the ratio of the amount of his causal negligence to the amount of causal negligence attributed to all defendants against whom recovery is allowed.

(b) Exception.—The plaintiff may recover for noneconomic loss in the amount of \$1,000,000, or less and for the full amount of economic loss from any defendant against whom the plaintiff is not barred from recovery. Any defendant who is so compelled to pay more than his percentage share of the plaintiff’s economic loss and noneconomic loss may seek contribution. The plaintiff may only recover noneconomic loss for that portion of the noneconomic award in excess of \$1,000,000 from each defendant in an amount proportional to each defendant’s share of causal negligence.

(c) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Economic loss.” Includes, but is not limited to, medical bills and expenses, property damage, lost wages, loss of earnings capacity or other similar damages.

“Noneconomic loss.” Includes, but is not limited to, pain and suffering, mental anguish, emotional distress, loss of consortium or other similar damages.

Amend Bill, page 74, lines 6 through 30; page 75, lines 1 through 10, by striking out all of said lines on said pages

Amend Sec. 5104, page 77, line 4, by striking out “CHAPTER 11” and inserting

Section 515

Amend Sec. 5105, page 77, line 15, by striking out “CHAPTER 11” and inserting

Section 515

Amend Sec. 5107, page 78, line 19, by striking out “CHAPTER 11” and inserting

Section 515

On the question,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—174

Adolph	Evans, D.	Mackereth	Schroder
Allen	Evans, J.	Maitland	Schuler
Argall	Feese	Major	Scrimenti
Baker, J.	Fichter	Manderino	Semmel
Bard	Fleagle	Mann	Shaner
Barley	Flick	Markosek	Smith, B.
Barrar	Forcier	Marsico	Smith, S. H.
Bebko-Jones	Frankel	Mayernik	Solobay
Belardi	Freeman	McCall	Staback
Belfanti	Gabig	McGeehan	Steelman
Bishop	Gannon	McGill	Steil
Blaum	Geist	McIlhattan	Stern
Boyes	George	McIlhinney	Stetler
Bunt	Gordner	McNaughton	Stevenson, R.
Butkovitz	Grucela	Melio	Stevenson, T.
Buxton	Gruitza	Michlovic	Sturla
Caltagirone	Habay	Micozzie	Tangretti
Cappelli	Haluska	Miller, S.	Taylor, E. Z.
Casorio	Hanna	Mundy	Taylor, J.
Cawley	Harhai	Myers	Thomas
Civera	Harper	Nailor	Tigue
Clark	Hasay	Oliver	Travaglio
Clymer	Hennessey	Pallone	Trello
Cohen, L. I.	Herman	Perzel	Trich
Cohen, M.	Hershey	Petrarca	Tulli
Colafella	Hess	Petrone	Vance
Coleman	Horsey	Pippy	Veon
Cornell	Hutchinson	Pistella	Vitali
Corrigan	Jadlowiec	Preston	Walko
Costa	James	Raymond	Wansacz
Coy	Josephs	Readshaw	Washington
Creighton	Kaiser	Reinard	Waters
Cruz	Keller	Rieger	Watson
Curry	Kirkland	Roberts	Williams, J.
Dailey	Krebs	Robinson	Wojnaroski
Daley	LaGrotta	Roebuck	Wright, G.
Dally	Laughlin	Rooney	Wright, M.
DeLuca	Lawless	Ross	Yewcic
Dermody	Lederer	Rubley	Youngblood
DeWeese	Lescovitz	Ruffing	Yudichak
DiGirolamo	Levdansky	Sainato	Zimmerman
Diven	Lewis	Samuelson	
Donatucci	Lucyk	Santoni	Ryan,
Eachus	Lynch	Sather	Speaker

NAYS—24

Armstrong	Egolf	Maher	Pickett
Baker, M.	Fairchild	Metcalfe	Saylor
Bastian	Godshall	Miller, R.	Strittmatter
Benninghoff	Harhart	Nickol	Turzai
Birmelin	Kenney	O'Brien	Wilt
Browne	Leh	Phillips	Zug

NOT VOTING—1

Rohrer

EXCUSED—2

Stairs Surra

The majority having voted in the affirmative, the question was determined in the affirmative and the amendment was agreed to.

On the question,
Will the House concur in Senate amendments as amended?

The SPEAKER. Now, on final passage of HB 1802, as amended now, I have the following names listed who desire to speak. Please, please. It is my expectation that a number of these people will waive off because the bill is less complicated in the minds of some than it was before.

Mr. Clymer, do you still want to speak on this?

Mr. Godshall? Do you waive off? No.

I am not doing well.

Mr. Rohrer waives off. Thank you.

Mr. Belfanti? Wants to speak.

Mr. Cawley? Waives off.

Mr. Thomas? Waives off.

Mr. Roberts? Waives off.

The Chair recognizes the gentleman from Bucks, Mr. Clymer.

Mr. CLYMER. Thank you, Mr. Speaker.

I will try to make it short.

Indeed, we are facing a medical crisis in Pennsylvania. For months now health-care providers have been coming to the Commonwealth asking for our assistance. The doctors, nurses, the hospital administrators have been coming and saying, we need your help. Hundreds, yes, thousands from across this Commonwealth have come to this General Assembly and said, we need your help; we have a problem; help us stop the bleeding. As Republicans, we are trying to fix the tourniquet so that the bleeding will stop, because we recognize this to be, indeed, a life-and-death issue, and yes, as has been said, we have confronted the Senate, our own Senate—

Mr. DeWEESE. Mr. Speaker?

Mr. CLYMER. —in deliberating this particular problem.

The SPEAKER. Will the gentleman yield, please.

Mr. CLYMER. Yes.

The SPEAKER. Mr. DeWeese.

Mr. DeWEESE. Just a point of parliamentary inquiry or point of information.

The gentleman, the honorable chairman of many years, deserves to be heard, and the attention of the House is not focused upon the gentleman's remarks, respectfully.

The SPEAKER. The Chair thanks the gentleman.

The conference in the vicinity of the gentleman, Mr. DeWeese, please break up. Members, please take your seats.

Mr. Clymer.

Mr. CLYMER. Thank you, Mr. Speaker.

Yes, we have confronted our own Senate in trying to solve this problem, but I ask today, what has the Democrat leadership offered to solve this medical crisis? Where are their bills; where are their plans to solve it? Certainly with so many people coming to both sides of the aisle to say, we need your help, I am sure the Democrats have a plan to help solve this problem. I would think so. We are talking life-and-death issues. Do they think that those people who came were crying wolf? Maybe they do. Maybe they believe it is a charade or something that these health-care professionals really did not have a problem, but we, we as Republicans, have said, yes, we will try to help; we will try to

bring a solution. It is not going to be easy.

It is easy to sit on the sidelines, Mr. Speaker, and criticize when you have nothing to offer. Well, let the public know, nothing to offer, and yes, we have tried to bring about, Mr. Speaker, we have tried to stop the bleeding, but the other side cannot even offer a Band-Aid.

I applaud the Republicans and the Democrats, those concerned Democrats who have spoken to their medical service providers and have tried to solve the problem. Yes, there has been strong bipartisan work between both sides of the aisle on a person-to-person basis, hard work, trying to reach agreements, Mr. Speaker, and this bill, HB 1802, certainly is indicative of that hard work. So I am proud of the work on both sides of the aisle to bring about a solution.

Mr. Speaker, from time to time I have heard people who say we have to be concerned about women and children, and I agree. Well, what is going to happen when a woman who is pregnant has serious complications and there are no OB-GYN doctors, these highly trained professionals who have spent years in the practice? They have left because this General Assembly has said, we just cannot help you, and they leave this great Commonwealth. Who is going to take care of these women and children? This is, I would say, that if we look at the records, it would be not uncommon for the women in Pennsylvania who had pregnancies to need the services of these great, dedicated doctors.

Mr. Speaker, as I said before, former Governor Bob Casey was given some superb treatment in the Commonwealth of Pennsylvania because we had these fantastic doctors, these highly trained doctors, and that is what we are talking about. We are talking about—

The SPEAKER. Will the gentleman yield.

Mr. CLYMER. —the decent people that we are trying to keep in the Commonwealth.

The SPEAKER. Will the gentleman yield.

Please. Please discontinue the loud conversation on the floor.

Mr. Clymer.

Mr. CLYMER. Mr. Speaker, I have heard from the other side stories of people who have been hurt, and that is tragic indeed. You know, our hearts go out to them, but when that woman comes in and delivers 10 weeks early, is a newborn going to have the professional nursing staff there? Are they going to have the intensive-care units there to take care of the child? If the child needs a heart operation, though it be a newborn, and we have that kind of sophistication and technology, medical technology, are the people going to be there to save that child's life? Talk about women-and-children issues, this is certainly one.

I am telling you this is what it is about. This is what we as Republicans are trying to convey why it is so important when we see these professionals coming to us week after week, month after month, and asking for help and calling us. As has been said many times by many people on both sides of the aisle saying we need your help, that is what it is about; that is what it is about.

Mr. Speaker, I have mentioned before about the outstanding health-care services we have here in the Commonwealth of Pennsylvania. You know, the clinics, the outpatient clinics that many hospitals have, they do not make money; it is a losing proposition, but if we do not help the doctors and if we do not help the hospitals, maybe someday those outpatient clinics will close, and they serve the less fortunate; they serve the poor in our communities, and they give them excellent health care, excellent health care, but someday they may not be there.

It seems when I heard some of the speakers on the other side, they say that the Republican Senate is not going to do anything we do here tonight. I have not heard from the Senate pro tem. Maybe they have. So they are making an assumption that the Senate will not be around to pass anything that we do. Well, see, Mr. Speaker, I believe in the power of the people. I believe that if we get this message out that this is an important issue for all Pennsylvanians, the Senate may just come back if they feel it is important enough. I mean, after all, when those trauma centers begin to close down and patients are put on a long waiting list and health care becomes rationed, you just do not know what may happen, because we as Republicans, we believe in the power of the people; that they are the bottom line; they are the ones that will get things moving in the right direction.

Mr. Speaker, I said I would be brief. These remarks from my perspective are brief, and I would strongly urge, strongly urge every member in this General Assembly to concur in HB 1802.

Thank you, Mr. Speaker.

The SPEAKER. The gentleman, Mr. Godshall. Will the gentleman yield.

The conference in the vicinity of the minority leader, please, please break up. Staff conferences to my right, please hold your discussions down.

Mr. Godshall.

Mr. GODSHALL. Thank you, Mr. Speaker.

I will be extremely brief, but there is one important part of tort reform, medical malpractice reform, that we have not touched on; it is not in the bill, and it is the venue part of it. I know it is important to a lot of our doctors down in the southeast and different parts of the State.

Mr. Speaker, the House knows that I have vigorously pursued an amendment to restrict venue shopping. This one reform alone would save doctors, hospitals, and nursing homes countless millions of dollars.

Mr. Speaker, I am not offering any venue amendment tonight, but apparently, we have received some assurances from the Supreme Court that they will consider a rule change to prevent forum shopping. The court has already announced that they will adopt a Pennsylvania version of Federal rule 11 regarding frivolous lawsuits, and I am satisfied that they will likewise act on venue. In addition, I have been assured that the House will move a constitutional amendment legislation to resolve this issue if the court does not act.

Mr. Speaker, the Hospital Association desperately needs CAT Fund relief, and the Pennsylvania Medical Society has repeatedly told us that without the three legs of reform — CAT Fund privatization, tort reform, and patient protection — Pennsylvania's medical delivery system will collapse.

Although HB 1802 is not perfect, it meets these basic requirements. The only purpose coming before you tonight was to tell you for what reason I was not pushing the venue amendment, which you all know that I have been a champion of, and I appreciate your consideration tonight. Thank you.

The SPEAKER. The gentleman, Mr. Belfanti.

Mr. BELFANTI. Thank you, Mr. Speaker.

Mr. Speaker, on Monday I left this chamber sick after about a week with the flu and went home to see my doc. He told me to take the rest of the week off, by the way. I did not come in yesterday; I remained on leave, but I did tell him before leaving the office that Wednesday we would be voting medical mal, and he then quickly wrote me a prescription and told me to get back to

work. I am only kidding about that. He is a great guy, and one of the many docs in my district whom I have a very good dialogue with.

My last absences, my last missed votes here on the House floor were 3 years ago following two serious back surgeries. They were both performed by a renowned neurosurgeon, but please pay attention to the fact that I said two surgeries. Now, why two? Well, the surgeon told me that by removing a disk in my lower back, he could probably unpinch my sciatic nerve, which was causing me severe pain throughout my entire left hip and down through my left foot. He however went on to forewarn me that the surgery might not be completely effective – it might indeed aggravate the problem – and could not guarantee that a subsequent surgery would not be required. Well, I had the operation in August of 1998, and in fact, it made matters worse, and because of scar tissue and some other ramifications, I had to wait until November of '98 for a second surgery. I recall many of you people moving out of my way while I was hobbling around on crutches and with a cane, and I appreciate that, particularly a very good friend of mine, Italo Cappabianca, who almost on a daily basis asked me how I was doing while he was suffering with inoperable brain cancer.

But I had the same surgery performed by the same surgeon 4 months after the first surgery was performed by him. I never considered filing a lawsuit. He did explain to me at the front end of the surgery that the odds were 50-50 that I might require a second operation. He was honest and forthright about that, and I appreciated that. So I never considered a lawsuit for pain and suffering or anything else, and I went back to the same surgeon, as I said. I had no way of knowing back then until the debate ensued on this issue a few weeks ago that had that surgeon been on the list, as Representative Blaum talked about, and maybe had lost 10 or 12 or 15 malpractice lawsuits, there was no way for me to know that. All I knew about this gentleman was that he was renowned as one of the foremost neurosurgeons in the State.

Well, 2 weeks ago, Mr. Speaker, I voted with the doctors to further the process here on the floor of the House. I voted for what I believed to be a highly flawed bill which had three very troublesome points, which I was assured would be worked on by the main stakeholders and that a compromise bill would be forthcoming from the State Senate. The compromise would include the docs, the trial lawyers, the insurance company, but most importantly, Pennsylvania's injured and sick workers and sick people, and I returned to the Capitol today prepared to vote for such a bill, even though I am still struggling with the flu, and I have managed to cough and sneeze around as many members of the Rules Committee as possible all day while they were not watching.

The previous speaker, Mr. Clymer – I am sorry for mentioning his name – the previous speaker wanted to know what the Democrats had to offer. Well, quite frankly, the previous speaker neglected to mention that we have been shut out of the process. This has been a war between the leadership of the House and Senate Republicans. But I do have one suggestion, because irrespective of how we vote tonight, if we vote "yes" on the amendments inserted by the Rules Committee, amended on the House floor a few minutes ago to the Senate amendments, this bill is going back to the Senate. If we vote "yes" on it, it is going back to the Senate. So I am going to make a suggestion on behalf of the House Democrats. It seems very odd to me that in the Commonwealth of Pennsylvania, if you get a traffic ticket, your son or daughter runs a red light and your wife is involved in a

minor fender bender, your insurance company can put you into an assigned risk pool and quadruple your car insurance for your entire family even though there were three separate individuals in your household that caused these three points on your car insurance.

Mr. Speaker, it is very troublesome to me, particularly after listening to the report given this morning to the Judiciary Committee by representatives of the CAT Fund, that 2 percent of the docs in this State are responsible for 40 percent of the CAT Fund payout, and that the biggest way that we can reduce medical malpractice liability insurance for the 98 percent of the docs that do not have that kind of a record is to put some type of pool together, an assigned risk pool, if you would, like we do for bad drivers, and put those couple of docs that have been convicted 10 times or 6 times – let us pick a number; let us make it 5 times – convicted 5 times of malpractice, put those couple of docs into an assigned risk pool. Let them pay four times the premium and reduce every other doc and 98 percent of the other docs' premiums by a tremendous amount, far more reaching than any of the provisions in this bill. So that is the suggestion that I have.

I talked to about a dozen docs today, and I ran that by each of them – would you have a problem with seeing an assigned risk pool? – and in fact some of the docs did not even know that we at the State level do not have the ability to access the names of the docs that have been chronic, chronic doctors convicted of malpractice in this State. We do not have access to it.

Now, the docs do not write the legislation in this chamber, the trial lawyers do not, the labor unions do not, and the Chamber of Commerce does not as well; we do. Why do we not take the bull by the horns, and if we are going to do this bill and clip the wings of the trial lawyers, that is fine, and clip the wings of the insurance industry, that is fine, and maybe put some meaningful caps on jury awards, that is fine, but why do we not also do the right thing and go all the way and let us make public, or at least make public to the General Assembly members and to the Health Department and to other State agencies, the names of docs that are chronic and repeat convicted offenders of malpractice. Ninety-eight percent of the docs in this State would benefit by doing that.

So I am not up here asking people to vote "yes" or "no," because quite frankly, Mr. Speaker, it does not matter how anybody votes in the next few minutes. This bill is going back to the Senate, and we are going to go through another circus in a few weeks or a few months. So it does not matter how you vote. I am going to vote "no" only because I feel that we have the ability to send a bill to the Governor tonight with some meaningful reform. I am going to vote "no." I probably could vote "yes," because as I said, the net result is this bill is going back to the Senate. And I hope someone over in the Senate is listening to that suggestion about an assigned risk pool only for bad docs so that the 98 percent of the docs that do a good job and that are paying far too high a price in medical malpractice insurance can see some real meaningful reduction in their insurance.

Thank you.

The SPEAKER. The Chair thanks the gentleman.

The gentleman, Mr. Rooney.

Mr. ROONEY. Thank you very much, Mr. Speaker.

Mr. Speaker, I, like probably everybody in the chamber tonight, have been struck by the comments of our colleagues, and certainly Democrats and Republicans alike are not at all unsympathetic to the plight of physicians in Pennsylvania who face skyrocketing malpractice premiums. But there were two speakers tonight that I think really encapsulated, for me at least, the debate on HB 1802.

The first was the distinguished gentleman from Luzerne County, the Democratic chairman of the Judiciary Committee, Chairman Blaum, who I think really put what we are talking about tonight in the most succinct and concise fashion. But the other gentleman for whom I have a great deal of respect, and I know we all do, the distinguished chairman of the State Government Committee, Mr. Clymer, or rather the gentleman from Bucks County, who just made an assertion that the Democrats are devoid of ideas, that the Democrats do not have a plan about how we can improve the plight not only for physicians but also for patients in Pennsylvania, and quite frankly, Mr. Speaker, I take umbrage to that assertion, because Democrats for years, and I can tell you firsthand in my dealings with the chairman of the Insurance Committee from Allegheny County, Mr. DeLuca, we have been fighting for issues like patient safety, and the one thing that is unmistakable in HB 1802 is the fact that this bill that we are about to vote on in the next few minutes is devoid of any kind of mechanism or provision that would provide for patient safety in Pennsylvania.

The chairman of the Judiciary Committee, the Democratic chairman, Mr. Blaum, pointed out that 2 percent, 2 percent of the physicians in Pennsylvania are responsible for 40 percent of the payouts of the medical CAT Fund, and that was just affirmed by the gentleman, Mr. Belfanti. Mr. Speaker, I think that needs to be addressed, and Democrats think that that needs to be addressed. We are not unsympathetic in any way, shape, or form to what is happening to the medical community in Pennsylvania, but we are also, also very cognizant of the fact that patients in Pennsylvania are deserving of the same kind of evenhanded, high-minded treatment that are physicians in this State.

Mr. Speaker, when you consider the fact that in the Commonwealth of Massachusetts, consumers in that State have access to relevant information about the people who are providing care for them, I think, and I think I share the sentiments of everyone in this chamber, that Pennsylvania consumers should be armed and equipped with access to that same kind of information, and the kind of information, Mr. Speaker, that I refer to is the kind of education and training and hospital affiliations that Pennsylvania doctors have experienced, the kind of board certifications and insurances that they accept, and the kind of public writings that they have issued over time. But, Mr. Speaker, I also believe that Pennsylvania consumers need to know and are deserving to know of the kind of disciplinary actions that have been taken against Pennsylvania physicians, and I also believe that the malpractice history of Pennsylvania physicians should be something that is easily and readily available to Pennsylvania consumers, and in the Commonwealth of Massachusetts there is a very simple way to facilitate all of that. They have access via an 800 toll-free number that they can call, and they also have access by the Internet. And, Mr. Speaker, I understand full well that it is probably, it is very likely, that HB 1802 is going to be sent back to the Senate, but I think it would be a horrible travesty and a disservice to the people of Pennsylvania if we sent this back without giving the people, the consumers, the patients in Pennsylvania, the same kind of treatment, the same kind of access to information, that those good people in Massachusetts do.

MOTION TO SUSPEND RULES

Mr. ROONEY. So, Mr. Speaker, at this point I would ask to

suspend the rules so that I may offer amendment A0670.

The SPEAKER. Mr. Rooney, would you please repeat the number of that amendment?

Mr. ROONEY. Yes, sir, Mr. Speaker. The amendment I would like to offer by a suspension is A0670.

The SPEAKER. Do you know if we have a copy of that?

Mr. ROONEY. If you do not, I would gladly provide you with one, Mr. Speaker.

The SPEAKER. Did you turn that in to the—

Mr. ROONEY. Mr. Speaker, that was filed under the name of the gentleman, Mr. Veon.

The SPEAKER. I am sorry; we do have it. It was under Mr. Veon's name; we missed it.

The gentleman, Mr. Rooney, moves that the rules of the House be suspended to permit him to offer amendment A0670.

On the question,

Will the House agree to the motion?

The SPEAKER. On the question of suspension of the rules, this is debatable by the floor leaders.

I assume the gentleman, Mr. DeWeese, yields to the gentleman, Mr. Rooney. On the question, the gentleman, Mr. Rooney, is recognized.

Mr. ROONEY. Mr. Speaker, it was asserted by the gentleman, the chairman of the State Government Committee, that the Democrats in Pennsylvania are devoid of ideas about how we can improve access to information and access to care and at the same time reduce premiums for doctors in Pennsylvania. I—

The SPEAKER. Mr. Rooney, briefly on what the amendment says, not what caused you to offer it.

Mr. ROONEY. Mr. Speaker, I submit that Pennsylvania consumers are entitled to the same kind of information that those people in Massachusetts are entitled to, and this amendment would foster that notion, and I believe that it is imperative that Pennsylvania consumers have that same kind of opportunity, and I would ask for an affirmative vote on amendment A0670.

The SPEAKER. On the suspension of the rules to offer it, you mean.

Mr. ROONEY. Correct.

The SPEAKER. Yes.

Mr. Perzel.

Mr. PERZEL. I would ask the members to respectfully vote "no," Mr. Speaker.

On the question recurring,

Will the House agree to the motion?

The following roll call was recorded:

YEAS—97

Bebko-Jones	Frankel	Mayernik	Shaner
Belardi	Freeman	McCall	Solobay
Belfanti	George	McGeehan	Staback
Bishop	Grucela	Melio	Stelman
Blaum	Gruitza	Michlovic	Stetler
Butkovitz	Haluska	Mundy	Sturla
Buxton	Hanna	Myers	Tangretti
Caltagirone	Harhai	Oliver	Thomas
Casorio	Horsley	Pallone	Tigue
Cawley	James	Petrarca	Travaglio
Cohen, M.	Josephs	Petrone	Trello

Colafella	Kaiser	Pistella	Trich
Corrigan	Keller	Preston	Veon
Costa	Kirkland	Readshaw	Vitali
Coy	LaGrotta	Rieger	Walko
Cruz	Laughlin	Roberts	Wansacz
Curry	Lawless	Robinson	Washington
Daley	Lederer	Roebuck	Waters
DeLuca	Lescovitz	Rooney	Williams, J.
Dermody	Levdansky	Ruffing	Wojnaroski
DeWeese	Lucyk	Sainato	Wright, G.
Diven	Manderino	Samuelson	Yewcic
Donatucci	Mann	Santoni	Youngblood
Eachus	Markosek	Scrimenti	Yudichak
Evans, D.			

NAYS—102

Adolph	Egolf	Lewis	Rubley
Allen	Evans, J.	Lynch	Sather
Argall	Fairchild	Mackereth	Saylor
Armstrong	Feese	Maher	Schroder
Baker, J.	Fichter	Maitland	Schuler
Baker, M.	Fleagle	Major	Semmel
Bard	Flick	Marsico	Smith, B.
Barley	Forcier	McGill	Smith, S. H.
Barrar	Gabig	McIlhattan	Steil
Bastian	Gannon	McIlhinney	Stern
Benninghoff	Geist	McNaughton	Stevenson, R.
Birmelin	Godshall	Metcalfe	Stevenson, T.
Boyes	Gordner	Micozzie	Strittmatter
Browne	Habay	Miller, R.	Taylor, E. Z.
Bunt	Harhart	Miller, S.	Taylor, J.
Cappelli	Harper	Nailor	Tulli
Civera	Hasay	Nickol	Turzai
Clark	Hennessey	O'Brien	Vance
Clymer	Herman	Perzel	Watson
Cohen, L. I.	Hershey	Phillips	Wilt
Coleman	Hess	Pickett	Wright, M.
Cornell	Hutchinson	Pippy	Zimmerman
Creighton	Jadlowiec	Raymond	Zug
Dailey	Kenney	Reinard	
Dally	Krebs	Rohrer	Ryan,
DiGirolamo	Leh	Ross	Speaker

NOT VOTING—0

EXCUSED—2

Stairs	Surra
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Less than a majority of the members required by the rules having voted in the affirmative, the question was determined in the negative and the motion was not agreed to.

On the question recurring,
Will the House concur in Senate amendments as amended?

The SPEAKER. The Speaker is aware of no additional people who desire recognition – whoa, whoa, whoa, whoa – with the exception of the gentleman, Mr. Schroder, and then maybe the two floor leaders. I have not heard from them.

Mr. Gannon, do you desire recognition on this? Is this the new Tom Gannon?

Mr. GANNON. I do not know.

Mr. Speaker, it is unfortunate that a few moments ago this debate turned partisan. I do not think this is a partisan issue. I know that Representative Blaum and I, my Democrat counterpart on the Judiciary Committee, we have worked very, very hard on

this issue over the past several months. He has been in my office innumerable times, I have been in his office innumerable times, trying to come to some agreement on the issues that we were dealing with, unfortunately with a group of people with which you cannot reach any agreement, and I think some of the members will find that out as this matter takes its course.

But as has been pointed out, the Judiciary Committee did hold hearings this morning. Representative Blaum was there. We did get some pretty good information from the Bureau of Professional Licensure and the director of the CAT Fund about doctors practicing in Pennsylvania, what those numbers are in the southeast, the west, the northeast, the mid-State, the northwest, and the information was very valuable. And it is one of the unfortunate things that I have seen as this debate has unfolded that a lot of the positions that we have taken on this issue are based on lack of information, misinformation, and in some instances, unfortunately, downright lies.

Representative Blaum and I made a commitment to continue to hold hearings on the bills that have been referred to the Judiciary Committee. We just had one of the members attempt to offer an amendment, which I think in this environment – I voted against the suspension of the rules – I think the timing is bad, but I recommend that he give that amendment to Representative Blaum and any other members who are interested in this issue to give those amendments to the chairs of that committee. We are willing to take a look at those. This bill is going to be around for a while; it is not going to go anywhere. If we vote it tonight, it is going to go over to the Senate and it is going to sit there for 4 or 5 weeks.

We have a couple of bills that have been referred to the committee just recently. We are going to continue to hold hearings on those bills and we are going to continue to explore that issue, and we are going to continue to look at all aspects of this. We are going to try to get to the truth of this matter to find out what this crisis really is, to come up with a better definition than simple anecdotal stories, and try and make public policy on simple complaints – I do not want to use the words, but I will – whining and complaining. I do not think that is our purpose here. I want to make good public policy, but I want to make it on good, hard facts, and one fact that was very evident from today's hearing is that the doctors in Pennsylvania, particularly the good doctors, doctors who have never had a claim made against them, are paying too much money for their malpractice insurance, and the unfortunate situation that we are confronted with here tonight, the bill that we are being asked to vote on, does nothing, does absolutely nothing to give any relief to those doctors either immediately or, quite frankly, in the foreseeable future, and that is shame on us, because that is how we have defined the problem. We have said doctors are leaving this State. We have been told that. Facts belie that, but that is what we have been told, because their malpractice premiums are too high, and we are sitting here, we are standing here, we are arguing, we are debating late at night over a piece of legislation that does absolutely nothing to correct that problem, and shame on us, because we have had an opportunity to do it.

There was one little piece in this bill that would have given some relief to those neurosurgeons, to those orthopedic surgeons, or those baby doctors, and what did we do? We took it out. We took it out. Why? To save a couple of hundred bucks for the family doctors? Because what, they would have been telephoning us and saying, oh, instead of \$6,000 a year I am paying \$6,200 a year, when we have neurosurgeons paying \$135,000 a year? And I know we need those family doctors; they are important to the

health care in Pennsylvania. But Representative Belfanti did not go to a family doctor to have that surgery on his back; he went to a neurosurgeon, and he even admitted he was one of the best ones he could find. Now maybe that guy will be gone in a couple of weeks, because we have done nothing to help that man; we have done absolutely nothing to help him, and shame on us.

Thank you, Mr. Speaker.

The SPEAKER. Mr. Schroder.

Mr. SCHRODER. Thank you, Mr. Speaker.

Mr. Speaker, I will be brief, and the hour is late and I certainly appreciate the indulgence of everyone in the House on both sides of the aisle for what has been a long and somewhat difficult evening.

Mr. Speaker, I hope that one thing tonight, though, is finally put to rest. You know, for however long I have been here, 6 or 7 years, all I have heard, especially from the other side of the aisle and from the leader on the other side of the aisle, is how we always just accede to weak, watered-down versions of whatever the Senate sends to us. How often have we heard that claim, Mr. Speaker? Well, I hope our actions tonight put that to rest once and for all, because we are not doing that here tonight, Mr. Speaker. To do so would have been foolhardy.

Mr. Speaker, no one wanted to wrap this malpractice issue up and get a bill to the Governor's desk this week more than I did – I can assure you of that – and I know many of you wanted to do that also. But to just merely accept the watered-down version that came over would have been wrong, and the reasons it would be wrong is because our people back home, the people who count, the people that we are up here to work for, told us loud and clear that they wanted us to continue the fight; they wanted us to continue the fight for meaningful medical malpractice reform, and, Mr. Speaker, that is what we are doing here tonight.

Mr. Speaker, there are several very substantive changes to this bill. The joint-and-several-liability provision is something that will be very helpful and very important to our hospitals, and even though the broader version has been taken out, it will still be a value to the medical malpractice portion of this bill, and I hope that we can revisit that issue in the near future. We also improved upon the periodic payment for future medical expenses that was changed in the Senate. Now it starts at \$100,000 as opposed to the higher limit that they had. We also restored important patient protections regarding the notations and markings on patient charts. And I have heard a lot of complaining about the CAT Fund and using the automobile CAT Fund to help pay off the unfunded liability. Mr. Speaker, most of us realize that that CAT Fund needs to be eliminated and needs to be privatized, yet the reason it has not for so long and what has held us up for so long is the inability to deal with the unfunded liability. Mr. Speaker, finally we have a way to deal with that, an effective way to deal with that, and that is why that is in this bill and that is why it is so important.

Finally, Mr. Speaker, I have heard claims tonight that we have done a sneak attack on the civil justice system that served us so well over the past 110 years. You know, Mr. Speaker, LORL (Legislative Office for Research Liaison), the nonpartisan legislative research committee, has provided me with information on medical malpractice tort reform from across the country. Mr. Speaker, 23 States have some kind of limit on noneconomic damages. We are not even going that far. But more States than that, 29 States, have reformed the collateral source rule, 29 States have provided for periodic payment of future damages, and a number of States, although I do not have the number, have also

dealt with joint and several liability. So, Mr. Speaker, what we are doing is meaningful reform, and it is well within the mainstream of what other States have accomplished already out there across this country.

So, Mr. Speaker, I thank you for your attention, I thank you for your indulgence, and I ask for a “yes” vote on concurrence.

The SPEAKER. On the question of concurrence, the gentleman, Mr. Perzel, waives off.

The gentleman, Mr. DeWeese, is recognized.

Mr. DeWEESE. Thank you very much, Mr. Speaker.

Notwithstanding the passion and the good intentions of the previous speaker from Chester County, the main issue that we are confronting tonight is Governor Schweiker would have had a chance to receive a medical malpractice proposal which would have rolled back insurance rates for doctors. My colleagues in the Senate and his colleagues in the Senate, preeminent among them the Lieutenant Governor of our Commonwealth, Robert Jubelirer, his staff, and the phalanx of Senate members that surround him have offered the fact that there would be potentially a 40-percent rollback, a 40-percent rollback – one more time, a 40-percent rollback. That was the figure that our Senate brothers and sisters offered us last night.

Now, we had a chance to do that, and I know that the inexorable momentum developed around this issue will probably carry it to a forward vote, but I will not be one of those favorable voters tonight on the concurrence of 1802. When we decamp this chamber and the measure percolates back over to the other side of the building, it will be lost in the bowels of the huge, cumbrous mechanisms of the Senate Republican bureaucracy. It will be there for 3 or 4 or 5 weeks or it could be there for 3 or 4 or 5 months. We had a chance to get half the proverbial loaf.

The iron chancellor of Germany, Otto von Bismarck, once observed that the art of politics is the art of the possible, the art of the next best, the art of a deal. We had a deal in many, many cases with about 107 of us anyway on this side of the building with our Senate colleagues, and we could have rolled back insurance rates starting tomorrow morning. We could have aligned ourselves with GOP stalwarts in the Senate. I was voting with Republican Senator Robert Jubelirer. We were voting with 88 percent of the Senate. Contrary to the gentleman's assertion, it was not a watered-down proposal. A rollback of rates was the desire of the Pennsylvania medical community, and in my view, we should have embraced the Senate proposal of last night.

My vote will be in the negative notwithstanding the pullulating enthusiasms of the gentleman from Chester County.

On the question recurring,

Will the House concur in Senate amendments as amended?

The SPEAKER. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

The following roll call was recorded:

YEAS—148

Adolph	Egolf	Major	Schroder
Allen	Evans, J.	Mann	Schuler
Argall	Fairchild	Markosek	Semmel
Armstrong	Fichter	Marsico	Shaner
Baker, J.	Fleagle	Mayernik	Smith, B.
Baker, M.	Flick	McCall	Smith, S. H.
Bard	Frankel	McGill	Solobay
Barley	Gabig	McIlhattan	Staback

Barrar	Geist	McIlhinney	Steil
Bastian	George	Melio	Stern
Belardi	Godshall	Metcalfe	Stetler
Benninghoff	Grucela	Micozzie	Stevenson, R.
Birmelin	Gruitza	Miller, R.	Stevenson, T.
Blaum	Habay	Miller, S.	Strittmatter
Boyes	Hanna	Nailor	Sturla
Browne	Harhai	Nickol	Taylor, E. Z.
Bunt	Harhart	Perzel	Taylor, J.
Caltagirone	Harper	Petrarca	Tigue
Cappelli	Hasay	Petrone	Travaglio
Casorio	Hennessey	Phillips	Trich
Cawley	Herman	Pickett	Tulli
Civera	Hershey	Pippy	Turzai
Clark	Hess	Raymond	Vance
Clymer	Horsey	Readshaw	Vitali
Colafella	Hutchinson	Reinard	Wansacz
Coleman	Jadlowiec	Rieger	Watson
Cornell	Kaiser	Roberts	Wilt
Corrigan	Keller	Robinson	Wojnaroski
Costa	Kenney	Rohrer	Wright, M.
Coy	LaGrotta	Ross	Yewcic
Creighton	Lawless	Rubley	Youngblood
Cruz	Lederer	Ruffing	Yudichak
Dailey	Leh	Sainato	Zimmerman
Daley	Lewis	Samuelson	Zug
Dally	Lynch	Santoni	
DeLuca	Mackereth	Sather	
DiGirolamo	Maher	Saylor	Ryan,
Donatucci	Maitland		Speaker

NAYS-51

Bebko-Jones	Feese	Lucyk	Rooney
Belfanti	Forcier	Manderino	Scrimenti
Bishop	Freeman	McGeehan	Steelman
Butkovitz	Gannon	McNaughton	Tangretti
Buxton	Gordner	Michlovic	Thomas
Cohen, L. I.	Haluska	Mundy	Trello
Cohen, M.	James	Myers	Veon
Curry	Josephs	O'Brien	Walko
Dermody	Kirkland	Oliver	Washington
DeWeese	Krebs	Pallone	Waters
Diven	Laughlin	Pistella	Williams, J.
Eachus	Lescovitz	Preston	Wright, G.
Evans, D.	Levdansky	Roebuck	

NOT VOTING-0

EXCUSED-2

Stairs	Surra
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The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the amendments as amended were concurred in.

Ordered, That the clerk return the same to the Senate for concurrence.

HOUSE SCHEDULE

The SPEAKER. May I have your attention, please?

Tomorrow will be a nonvoting day. Now, please listen to this part of it. At the conclusion of tomorrow's session, I will take an adjournment motion until Wednesday, February 27, and the reason

for that date is it is my intention to come back on that date for the purpose of inducting a new member into the hall of the House. The new member-elect requested that date, and I saw no reason not to grant it. There will be nothing taking place on the floor other than that ceremony, to which you are all invited, of course, if you have the time and opportunity.

SUNSHINE NOTICE

The SPEAKER. The clerk will read the following sunshine notice.

The following communication was read:

House of Representatives
Commonwealth of Pennsylvania
Harrisburg
NOTICE
SESSION TIME
HOUSE OF REPRESENTATIVES

Notice is hereby given, in accordance with the Act of October 15, 1998, P.L. Number 93, that the House of Representatives will convene in open session in the Hall of the House on the following date:

Thursday, February 14, 2002
At 11:00 AM

Ted Mazia, Chief Clerk
February 13, 2002

The SPEAKER. The Chair recognizes the majority leader.

Mr. PERZEL. Mr. Speaker, in our new spirit of bipartisan cooperation, I would like to extend a special invitation to the minority leader to come on the 27th for the swearing in.

The SPEAKER. The Chair thanks the gentleman.

BILLS PASSED OVER

The SPEAKER. Without objection, all remaining bills on today's calendar will be passed over. The Chair hears no objection.

ADJOURNMENT

The SPEAKER. Does the majority leader or minority leader have any further business?

Hearing none, the Chair recognizes the gentleman from Lancaster County, Mr. Creighton.

Mr. CREIGHTON. Mr. Speaker, I move that this House do now adjourn until Thursday, February 14, 2002, at 11 a.m., e.s.t., unless sooner recalled by the Speaker.

On the question,

Will the House agree to the motion?

Motion was agreed to, and at 11:59 p.m., e.s.t., the House adjourned.