Medical liability will add between $60 billion and $110 billion nationally to the cost of health care this year — triggering higher health insurance premiums and higher medical costs for all Americans. (HHS, “Confronting the New Health Care Crisis: Improving Health Care Quality and Lowering Costs By Fixing Our Medical Liability System,” July 24, 2002.)

Roughly one in every six practicing physicians faces a malpractice claim each year. (Richard E. Anderson, M.D., The Doctors Company for the Physician Insurers Association of America, July 17, 2002.)

A recent survey of physicians revealed that one-third shied away from particular specialties because of the fear of liability exposure. (Harris Interactive, “Fear of Litigation Study,” April 11, 2002.)

In Mississippi, most cities with populations under 20,000 no longer have doctors who deliver babies. (HHS, “Confronting the New Health Care Crisis: Improving Health Care Quality and Lowering Costs By Fixing Our Medical Liability System,” July 24, 2002.)

In a recent survey, 79 percent of physicians report ordering more tests than necessary to protect themselves from lawsuits — driving up costs and raising patient safety issues. (Harris Interactive, “Fear of Litigation Study,” April 11, 2002.)

As a recent Institute of Medicine report notes, the medical malpractice crisis is impeding health care quality improvements because doctors are afraid to voluntarily report medical errors for fear that reporting systems will be used to prepare lawsuits against them.
Aetna is actively working at the federal and state levels to enact meaningful medical malpractice reform. At the federal level, Aetna was the leading health care company in 2002 supporting passage of medical malpractice reform. We lobbied for the Greenwood bill, the only legislative proposal in Congress supported by the entire physician, provider and allied professional communities. At the state level, Aetna has joined coalition efforts in a number of states to bring about meaningful tort reform as part of an effort to address the medical malpractice crisis. We will continue to work with the physician and hospital communities to effectively address this issue.

Aetna will continue to treat medical malpractice legislation as a top priority, and will use resources in Washington and across the country to help advance the provisions of meaningful malpractice reform in 2003.

To be effective, reforms need to tackle some key issues. Real reforms would:

- Fairly measure damages.
- Allocate liability and financial responsibility according to percentage of fault.
- Eliminate claims without merit.
- Include a cap on pain/suffering and punitive damages.
- Allow periodic payment for damage awards above a certain amount.
- Ensure that liability reforms apply equally to all players in the health care system, including doctors, hospitals, employers and health plans alike.
- Enact a fair statute of limitations.
- Reduce tort awards by the amount of collateral sources to eliminate the windfall of double payments and reduce overall health care system costs.
- Allow for early neutral evaluation with an expedited settlement offer.

Reform Works:

- The success experienced by those states that have adopted reforms, such as capping non-economic damages, shows that these reforms could reduce malpractice premiums 34 percent. The savings to the federal government resulting from reduced malpractice premiums would be $4 billion. (HHS, “Confronting the New Health Care Crisis: Improving Health Care Quality and Lowering Costs By Fixing Our Medical Liability System,” July 24, 2002.)

- California’s Medical Injury Compensation Reform Act of 1975 eliminates the lottery aspect of malpractice litigation by capping non-economic damages. During the past 25 years, malpractice insurance premiums nationally increased by 505 percent, almost four times more than the rate of increase in California. (HHS, “Confronting the New Health Care Crisis: Improving Health Care Quality and Lowering Costs By Fixing Our Medical Liability System,” July 24, 2002.)

- As a result of California’s reforms, claims are settled 33 percent faster there than the rest of the nation, and injured patients in California take home significantly higher percentages of their awards. (Richard E. Anderson, M.D., The Doctors Company for the Physician Insurers Association of America, July 17, 2002.)

- A recent national survey found that 73 percent of Americans favor a law that would guarantee injured patients full payment for economic damages (lost wages and medical costs), and place reasonable limits on awards for “pain and suffering” and punitive damages in medical liability cases. (Wirthlin Worldwide for the Health Liability Alliance, April 2002.)