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NEW NATIONWIDE POLL FINDS MOST AMERICANS WANT MEDICAL MALPRACTICE SYSTEM CHANGES AS PART OF HEALTH CARE REFORM

67% SUPPORT HEALTH COURTS

Washington, DC – September 10, 2009 – A new nationwide poll reveals that a strong majority of America’s voters want Congress to include lawsuit reform in any overhaul of the health care system. The survey found that:

- **83 percent of the nation’s electorate want Congress to address reform of the medical malpractice system as part of any health care reform plan.**
- **72 percent of voters think the fear of being sued often changes the way doctors deal with patients.**
- **67 percent of voters favor special health courts deciding medical malpractice cases rather than the regular court system.**

And in a stunning indictment of the American legal system:

- **Only 43 percent of Americans have confidence that a lawsuit “without merit” that was filed against them would be resolved in their favor, and only 30 percent have confidence it would be resolved quickly and efficiently.**

The poll was conducted by Clarus Research Group for Common Good, a nonpartisan legal reform coalition, and the Committee for Economic Development (CED). It was conducted via live telephone interviews August 14-18, 2009, with a sample of 1,003 registered voters and a margin of error of +/- 3.1 percent.

For media interested in a fuller briefing on the poll, there will be a conference call with the pollster, Dr. Ronald A. Faucheux, President of Clarus Research Group, as well as Philip K. Howard, Chair of Common Good, and Charles E. M. Kolb, President of the Committee for Economic Development, at 2:00 pm (ET) today. To join the conference call, dial 888-550-5602 and enter passcode 8424 5350.

"The American people want the system of medical justice to change," said Philip K. Howard, Chairman of Common Good. "They are saying it in very large numbers, and they want it to change as part of health care reform. The American people want quicker, more efficient and more reliable justice – in medicine and in the legal system more broadly."

The poll results are consistent with what elected officials are hearing from voters. According to U.S. Senator Michael B. Enzi (R-WY), "As I traveled my state in August, one of the most frequent comments I got was that we need to do something about medical liability. That is how people feel all across the country. Addressing our flawed medical liability system is critical to bringing down costs and improving patient safety."

"One of the greatest challenges of health care reform is to bend the curve of the ever-rising cost of health care," said U.S. Senator Joseph I. Lieberman (ID-CT). "The Health Courts initiative should be considered as a creative option to help control health care costs while also offering a new and innovative approach to reforming our medical malpractice system."

"What's striking in this poll are the very large percentages by which the American people support the creation of health courts," said former presidential candidate and U.S. Senator Bill Bradley. "As the health care reform effort moves forward, those numbers should provide a basis for bipartisan collaboration in Congress – universal coverage for Democrats and malpractice reform for Republicans."

In the survey, 83 percent of the respondents said they agreed with the statement, "As part of any health care reform plan, Congress needs to change the medical malpractice system so that cases are resolved quicker, and more reliably, on behalf of those who are in the right." A majority of voters, 52 percent, said they "strongly" agreed with the statement and an additional 31 percent said they "somewhat" agreed with it. Seven percent said they "somewhat" disagreed with the statement and 4 percent said they "strongly" disagreed with it. Six percent said they weren't sure. In the poll, 85% of both Democrats and Republicans, as well as 82% of Independents, expressed agreement with the statement.

"In today's polarized political environment, finding big bipartisan majorities on the same side of any issue is difficult, but we've found them here," said Charles E. M. Kolb, President of the Committee for Economic Development. "Congress would do well to listen."

The survey found that 67 percent of voters favor special health courts deciding medical malpractice cases rather than the regular court system. The survey presented this question to respondents:

"Here are two opposing points of view about how best to handle medical malpractice cases when a doctor or hospital is accused of causing harm to a patient. Some people say that these cases should go to the regular court system, as they do now, where they are

decided by juries just like other accident cases. Other people say these cases should go to special health courts – similar to special bankruptcy and tax courts – where, they say, cases will be decided more quickly, and at less cost, using consistent standards. Which viewpoint comes closest to your own?"

Sixty-seven percent of voters said they preferred special health courts, 26 percent said the current court system, 4 percent volunteered another answer, and 4 percent said they weren't sure.

The poll also found that most voters believe "defensive medicine" – the practice by which doctors order medical tests and procedures to protect themselves from possible lawsuits – is a cause of the increased cost of health care.

When asked, "Do you think the fear of being sued is causing doctors to order unnecessary medical tests and procedures just to protect themselves from possible lawsuits?", 74 percent answered yes, 19 percent said no, and 7 percent had no opinion. The 74 percent who said yes were then asked, "Do you think unnecessary medical tests and procedures that doctors order to protect themselves from being sued is a major cause of increased cost of health care, minor cause, or not the cause of increased cost of health care?" 51 percent responded "major cause," 42 percent "minor cause," 4 percent said "not the cause" and 3 percent had no opinion.

Other findings of the survey:

- 84 percent of voters agreed with the statement, "There is an increasing tendency for Americans to threaten legal action and lawsuits when things go wrong."
- 69 percent agreed with the statement, "The time and trouble it takes to file a lawsuit discourages many people with legitimate cases from going to court."
- 66 percent said they believe "the fear of being sued is changing American society for the worse because it's often having the effect of discouraging people from doing the right things," and 21 percent believe that "the fear of being sued is changing American society for the better because it's having the effect of discouraging people from doing the wrong things."
- 53 percent agreed with the statement, "Lawsuits that involve complex and technical issues should be decided by expert judges and not by juries."

Clarus Research Group (www.ClarusRG.com), the polling firm that conducted the survey, is a nonpartisan survey research firm based in Washington, D.C. Its president, Dr. Ronald A. Faucheux, can be reached to confirm survey results at 202-256-8036 or rfaucheux@ClarusRG.com.

Common Good (www.commongood.org) is a nonpartisan legal reform coalition dedicated to restoring common sense to America. Its advisory board is composed of

leaders in a wide range of fields: former government officials, including Howard Baker, Bill Bradley, Newt Gingrich, George McGovern, Diane Ravitch, Alan Simpson, and Richard Thornburgh; current and former university presidents, including Bill Brody, Tom Kean, George Rupp, and John Silber; and numerous other leaders in education, health care, law, business, and public policy. The Chair of Common Good is Philip K. Howard, a lawyer and author of Life Without Lawyers, The Death of Common Sense, and The Collapse of the Common Good.

Committee for Economic Development (www.ced.org) is a nonprofit, nonpartisan, business-led public policy organization dedicated to policy research on the major economic and social issues of our time and the implementation of its recommendations by the public and private sectors.

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