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Bipartisan Support for Medical Liability Reform

The current medical liability system is clearly broken, and there is widespread agreement among lawmakers, health care policy expert, opinion leaders, and the public that reform is needed.

Democratic and Republican policymakers agree.

President Barack Obama

“Still, I’m willing to look at other ideas to bring down [health care] costs, including one that Republicans suggested last year: medical malpractice reform to rein in frivolous lawsuits.” (*State of the Union Address, January 25, 2011*)

“I’ve talked with enough doctors to know that defensive medicine may be contributing to unnecessary costs. So I am proposing that we move forward on a range of ideas on how to put patient safety first and let doctors focus on practicing medicine.” (*Address to Congress, September 9, 2009*)

HHS Secretary Kathleen Sebelius

“...we’ve got a situation where there are frivolous lawsuits being filed against practicing physicians, discouraging some specialists from practicing in certain areas.” (*HHS Press Conference, September 2009*)

Former Obama White House OMB Director Peter Orszag

“The healthcare legislation that Congress enacted earlier this year, contrary to much of today’s overheated rhetoric, does many things right. But it does almost nothing to reform medical malpractice laws. Lawmakers missed an important opportunity to shield from malpractice liability any doctors who followed evidence-based guidelines in treating their patients.” (*The New York Times, October 20, 2010*)

Senate Majority Leader Harry Reid (D-NV)

“Reid has also hinted at his openness to reining in medical malpractice lawsuits, raising the idea of medical review boards that used to operate in Nevada to weed out frivolous lawsuits.” (*The Hill, September 8, 2009*)

Senators John Kerry (D-MA) and Orrin Hatch (R-UT)

“We’ve got to find some way of getting rid of frivolous cases, and most of them are,” Senator Hatch said. “And that’s doable, most definitely,” Senator Kerry replied. (*This Week with George Stephanopolous, August 30, 2009*)

House Judiciary Chairman Lamar Smith (R-TX)

“I continue to support such lawsuit-abuse reform, modeled after the successful practices of several states, including Texas, which could save over \$54 billion in unnecessary health care costs. This would help American families struggling with health care costs and protect medical personnel who are

overburdened by the high cost of malpractice insurance.” (*The Daily Caller*, December 16, 2010)

Congressman Phil Gingrey (R-GA)

“The HEALTH Act’s proven [medical liability] reforms will make medical malpractice insurance affordable again, encourage health care practitioners to maintain their practices, reduce health care costs for patients, and save billions of dollars a year in federal taxpayer dollars by reducing the need for ‘defensive medicine.’ It is an effective way to stop wasteful spending within our health care system, while ensuring better outcomes for patients.” (“*Gingrey, Smith, Scott Call on President to Support Medical Liability Reform: Introduce HEALTH Act to Reduce Frivolous Lawsuits*,” Press Release, January 24, 2011)

Congressman David Scott (D-GA)

“Americans face many health care challenges including high annual insurance premium increases and too few doctors. Our [medical liability reform] legislation focuses on expenses that doctors face in higher medical malpractice insurance premiums and the expensive defensive medicine they practice as a hedge against liability. (“*Gingrey, Smith, Scott Call on President to Support Medical Liability Reform: Introduce HEALTH Act to Reduce Frivolous Lawsuits*,” Press Release, January 24, 2011.)

National Commission on Fiscal Responsibility and Reform

Chairmen Alan Simpson, a former senator (R-WY), and Erskine Bowles, former chief of staff to President Bill Clinton, released an initial proposal that included plans to reduce health care costs – one of which is to “pay lawyers less and reduce the costs of defensive medicine by adopting comprehensive tort reform.” (*November 10, 2010.*)

Bipartisan Policy Center Debt Reduction Task Force

Former Senator Pete Domenici (R-NM) and former Clinton Administration CBO Director Dr. Alice Rivlin released a bipartisan study putting the cost savings of restraining total health care costs at \$756 billion through 2020, partly due to limits on noneconomic and punitive damages in medical liability cases. (“*Restoring America’s Future*,” November 17, 2010.)

Editorial pages across the country agree.

USA Today

“As for the minuses in the House [health care reform] plan: ... virtually no malpractice reform. CBO says a serious effort to restrain malpractice awards, and the “defensive medicine” doctors practice to avoid them, could save \$54 billion over 10 years. That’s enough to make it a worthwhile addition to the bill, despite opposition from trial attorneys and their Democratic allies.” (*November 9, 2009*)

The Washington Post

“The medical malpractice system is an expensive lottery that does a poor job of both assigning blame and compensating victims; the threat of liability encourages some doctors to order unnecessary tests and procedures.” (*September 10, 2009*)

The New York Times

“Malpractice claims do drive up insurance premiums paid by doctors in some high-risk specialties, such

as obstetrics and neurosurgery. Those costs are passed on to patients.” (June 16, 2009)

The Chicago Tribune

“Limiting certain kinds of damage awards would reduce spending on health care by about \$11 billion in 2009, or about one-half of 1 percent, the Congressional Budget Office estimates. Think about that in human terms: Reform would save millions of patients the expense and trauma of unnecessary tests and procedures.” (October 28, 2009)

The Boston Globe

“The current system fosters costly defensive medicine, provides benefits to too few deserving victims of physicians’ mistakes, forces doctors in many specialties to buy high-premium insurance policies, and discourages the open reporting of treatment errors, even though such information could lead to genuine improvements in medical care.” (November 7, 2010)

Investor’s Business Daily

“With Obamacare costing as much as \$2.5 trillion over the first 10 years, according to at least one estimate, and private expenses expected to continue rising, cutting costs is essential. Medical malpractice reform should be a priority for the Republican majority in the next Congress.” (November 15, 2010)

The American people and physicians agree.

A 2009 poll found that 69% of Americans wanted medical liability reform to be included in health care reform legislation, while a mere 20% opposed these efforts. Further, 72% believe that their access to quality medical care is threatened because medical lawsuit abuse is forcing good doctors out of the practice of medicine. (*Health Coalition on Liability and Access, October 2009*)

The Illinois New Physician Workforce Study found that 49% of recent medical school graduates intended to leave the state to practice, with the hostile liability environment in Illinois frequently cited as a problem. The researchers warn that this could lead to a shortage of physicians in the state in the future, especially in rural areas. (“*Illinois malpractice policies drive physicians out of state,*” The Clinical Advisor, November 15, 2010)

Who doesn’t agree: Personal injury lawyers.

Former Democratic National Committee Chairman Howard Dean

“The reason tort reform is not in the [health care reform bill] is because the people who wrote it did not want to take on the trial lawyers...and that is the plain and simple truth.” (*Health care town hall meeting, August 2009*)

A consensus has emerged. Congress must enact medical liability reform to bring down health care costs and to preserve patient access to quality medical care.