

Bipartisan Support for Medical Liability Reform

The current medical liability system is clearly broken, and there is widespread agreement among law-makers, health care policy experts, 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.)

Governor Jay Nixon (D-MO)

"Together we are marking the successful completion of a bipartisan effort to ensure that our health care providers can continue to do what they do best, help and heal Missourians in need." ("Caps on medical malpractice lawsuits signed into law," *St. Louis Public Radio*, May 7, 2015.)

Congressman Andy Barr (R-KY)

"The liability climate is forcing many quality physicians out of the practice of medicine altogether, exacerbating an already chronic shortage of doctors which threatens access to health care in this country." ("Barr and Barrasso Introduce the Saving Lives, Saving Costs Act," Press Release, June 2, 2015.)

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*)

"Fear of suits also causes doctors to practice "defensive medicine," ordering unnecessary tests just to prove that they covered all the bases." (February 28, 2011)

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 2011 poll found that 58% of Americas wanted their elected representatives in Washington to support comprehensive medical liability reform, with a third (32%) strongly in favor and only 23% opposing. Further, 71% 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, May 2011.*)

"In New York, on the other hand, doctors are finding it harder than ever to care for their patients. Today, the average obstetrician in New York stops practicing by age 48, largely due to out-of-control medical liability costs. One New York hospital went so far as to close its obstetrics practice all together out of fear of lawsuits." ("Medical liability an issue," Odessa American, September 18, 2012.)

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," <u>The Clinical Advisor</u>, November 15, 2010.)

Liability concerns forced 40% of all OB/GYNs to make changes in their practice and have driven nearly four percent of those surveyed to stop practicing obstetrics altogether (ACOG Survey, The American College of Obstetricians and Gynecologists, 2015)

Who doesn't agree? Personal injury lawyers.

Attorney and Former New York State Assembly Leader Sheldon Silver

With out-of-control lawsuits causing harm all across New York, doctors and hospitals across the state pay the highest liability-insurance rates in the country by a wide margin and often leave to practice in states with less hostile liability environments.

Former Speaker of the New York State Assembly, Sheldon Silver faced indictment earlier this year on charges involving six-figure payments from a personal-injury law firm. "It's clear that Silver has served the narrow interests of the tort bar in his decades in power." ("After Silver – ending ambulance chasers' rule of New York," New York Post, February 26, 2015.)

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.

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