



PO Box 78096
Washington, DC 20013-8096
www.HCLA.org

The ACCESS Act of 2019

There is widespread agreement that our nation's medical liability system is broken and does not serve the needs of our patients. The 116th Congress, therefore, should pass necessary reforms at the federal level that will reduce health care costs, preserve patients' access to medical care, and put an end to medical lawsuit abuse.

Mirroring the successful reforms of California and Texas, while adding other nontraditional solutions, the ACCESS (Accessible Care by Curbing Excessive LawSuitS) Act, [H.R. 3656](#), will ensure that physicians and health care providers can provide vital medical services to all patients without the threat of meritless lawsuits, so health care services will remain affordable and available to all.

Reining in Out-of-Control Health Care Costs

The medical liability reforms contained in the ACCESS Act would not only have a positive impact on access to care – they would help close an ever-widening budget gap and ensure all patients can afford the medical services they so desperately need.

A Congressional health care task force underscored the role of key provisions of the ACCESS Act, including reasonable limits on non-economic damages, in reducing health care costs and our national debt.¹

The high cost of physician and hospital liability insurance premiums, as well as “defensive medicine” — where patients may receive unnecessary and expensive medical treatments to reduce the risk of litigation — costs our health care system anywhere between \$160 billion to \$289 billion when applied to 2015 health care costs.

Protecting Patients, Not Personal Injury Lawyers

The proven reforms contained in the ACCESS Act would help deserving patients by promoting a speedier resolution to claims and ensuring that damage awards go to deserving patients — not personal injury lawyers.

The ACCESS Act contains patient-friendly provisions that:

- Limit attorney fees so that damage awards go to the patients in need;
- Allow for the full and unlimited recovery of economic damages, including past and future medical expenses, lost wages, rehabilitation costs, etc.;
- Allow for the periodic payment of damages.

Putting an End to Medical Lawsuit Abuse

Facts and figures show that too many medical liability cases are completely without merit. Unfortunately, the prospect of multi-million dollar jury awards encourages personal injury lawyers to

¹ “Republican Health Care Task Force Offers Medical Liability Solutions for Patients, Physicians,” *Health Coalition on Liability and Access*, 22 June 2016.

file meritless claims, driving up medical liability premiums for doctors and health care costs for patients.

To stop medical lawsuit abuse, the ACCESS Act would:

- Set the statute of limitations at three years after the injury occurs or one year after it is discovered by the claimant, whichever comes first;
- Allow the recovery of additional non-economic damages — such as damages awarded for pain and suffering — up to \$250,000;
- Allow physicians to express condolences and sympathy for adverse outcomes without the apology being used against them in court as evidence of wrongdoing.

Implementing a Federal Solution that Protects States' Rights

The federal government, within the confines of the Constitution, has a responsibility for making changes to our broken liability system. The ACCESS Act implements reform at the federal level that protects states' rights by preserving current and future liability reforms passed by individual states.

To safeguard the rights of states that have already enacted comprehensive medical liability reforms or do so in the future, the ACCESS Act would:

- Protect existing and future state laws that meet or exceed the protections in the federal law;
- Protect existing and future state laws that establish a specific amount of compensatory damages or the total amount of damages that may be awarded in a health care lawsuit regardless of whether the amount is greater or less than \$250,000.

It is time for Congress to enact the ACCESS Act, to repair a broken system that continues to increase health care costs and threaten patient access to care.