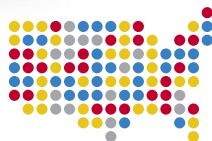


An Urgent Call for Special Health Courts:

American healthcare is in meltdown.
Costs are skyrocketing.
Thousands die from needless errors.
Doctors are quitting.

America needs a reliable system of medical justice.



COMMON GOODSM
RESTORING COMMON SENSE TO AMERICAN LAW

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Unreliable Justice Is Destroying American Healthcare

Medical Justice is Random.

Unreliable justice is not fair to anyone. Most patients harmed by medical errors get nothing. But doctors who did nothing wrong, especially in circumstances of human tragedy, are often hit with huge verdicts. There is no standard of care that doctors or patients can rely upon. One jury may make an award, and, on the same facts, the next jury may make a completely different judgment. Random justice infects the entire healthcare system with debilitating distrust.

Costs are Skyrocketing.

American healthcare now costs more than \$6,000 per person—almost twice what other countries spend, but with no better results. Distrust of justice causes doctors to practice “defensive medicine,” ordering billions of dollars of unnecessary tests and procedures each year. More than 45 million Americans are uninsured, in part because many small businesses cannot afford coverage. Fear of lawsuits makes it almost impossible even to talk about containing costs.

Medical Errors are Widespread.

Doctors and nurses are afraid of admitting uncertainty or mistakes, leading to needless medical errors. Thousands of Americans die each year unnecessarily from preventable slip-ups—like the wrong dosage of medicine—often in the same hospitals where miracle cures take place. Instead of providing incentives for doctors and hospitals to improve their systems, unreliable justice causes them to adopt a bunker mentality.

More and More Doctors are Quitting or Retiring.

Distrust of the current justice system is undermining the healthcare profession. Stunning increases in medical malpractice premiums are causing doctors to abandon high-risk specialties like obstetrics and neurosurgery. In 2004, only 65% of the ob-gyn residency slots in the nation were filled by the graduating classes at U.S. medical schools.

We Must Restore Reliability to Medical Justice.

A broad coalition of healthcare and other leaders—including leading patient advocates and employers—have come together behind the idea of creating reliable health courts. Common Good, a bipartisan organization dedicated to restoring common sense to American law, is helping spearhead this initiative.

“In our current system, both patients and physicians are often unjustly penalized. We need to create a means of delivering medical justice that is consistent, efficient and fair.”

William R. Brody, M.D., Ph.D.

President, Johns Hopkins University

"I've been working to improve patient safety since medical errors resulted in the death of my husband and a serious injury to my son—reforming the legal system is crucial. At present, the legal system is dishonorable and does not deliver justice."

Susan E. Sheridan

Co-Founder, Consumers Advancing Patient Safety



How Special Health Courts Would Solve the Problem

Trust In Justice.

Health courts would have judges dedicated full-time to resolving healthcare disputes. The judges would make written rulings in every case to provide guidance on proper standards of care. Their rulings would set precedents on which both patients and doctors could rely. As with similar administrative courts that exist in other areas of law—for tax disputes, workers' compensation, and vaccine liability, among others—there would be no juries. To assure uniformity and predictability, each ruling could be appealed to a new Medical Appellate Court.

Fair Accountability.

Patients injured by mistakes should be compensated for their injuries without waiting years and without paying one-third or more to lawyers. Good doctors, unfairly charged, should be affirmatively protected, without living for years under the threat of personal ruin. Special health courts would be reliable and speedy.

Improved Quality.

Reliable justice will not only clarify standards of proper care but provide incentives for doctors to keep up with the latest developments in medicine. Trust will be restored, encouraging the open professional interaction needed to reduce errors.

“When patients are injured through medical error, healthcare providers have an obligation to respond—not only with improved medical care but also with equitable compensation. Healthcare courts are needed to provide fair resolution to both patients and healthcare providers.”

William L. Roper, M.D., M.P.H.

Dean, School of Medicine & Vice Chancellor for Medical Affairs,
The University of North Carolina at Chapel Hill;
CEO, UNC Health Care System

“Real improvements in patient safety, as well as basic fairness, require reliable and timely decisions by expert courts.”

Troyen A. Brennan, M.D., M.P.H.

President, Brigham & Women's Hospital Physicians Organization;
Professor, Department of Health Policy & Management, Harvard School of Public Health



How Special Health Courts Would Work

Full-Time Judges.

The hallmark of the health courts would be full-time judges, dedicated solely to addressing healthcare cases. The judges would be appointed through a nonpartisan screening commission.

Neutral Experts.

Those judges would be able to choose from a panel of experts in each area of medicine, avoiding the dueling “hired gun” experts that confuse and prolong disputes today.

Speedy Proceedings; Lower Costs.

Most cases would be resolved within months. Except in exceptional cases, legal fees would be held to 20 percent, reducing current costs by almost half.

Liberalized Recovery for Injured Patients.

Once a mistake is verified, recovery would be automatic without the need to prove precisely how it happened.

Damages.

Patients would be reimbursed for all of their medical costs and lost income, plus a fixed sum that would be pre-determined according to a schedule addressing specific types of injuries. The schedule would be established by a panel of experts and updated periodically to reflect changing costs.

“The current legal system presents real barriers to improving the quality of American healthcare. A special health court could provide powerful incentives for honest reporting and analysis of errors, and to elevate standards of care.”

Margaret E. O’Kane

President, National Committee for Quality Assurance

“Trust is key in healthcare. Doctors who make appropriate decisions should not fear punishment for outcomes beyond our control.”

Sharon D. Malone, M.D., F.A.C.O.G.

Assistant Clinical Professor of Obstetrics and Gynecology, The George Washington University;
Partner, Foxhall Ob-Gyn Associates



These Leaders Agree, the Time Has Come for Special Health Courts

J. Michael Adams, Ph.D.

President, Fairleigh Dickinson University

Bobby R. Alford, M.D.

Chancellor, Baylor College of Medicine

Richard E. Anderson, M.D.

Chairman & CEO, The Doctors Company

Jeremiah A. Barondess, M.D.

President, New York Academy of Medicine

David M. Barrett, M.D.

CEO & Chair, Board of Governors, Lahey Clinic

David W. Bates, M.D.

Chief, Division of General Internal Medicine, Brigham & Women's Hospital; Chair, National Alliance for Primary Care Informatics

Griffin B. Bell

Senior Counsel, King & Spalding; Former U.S. Attorney General; Former U.S. Circuit Judge, Fifth Circuit Court of Appeals

Troyen A. Brennan, M.D., M.P.H.

President, Brigham & Women's Hospital Physicians Organization; Professor, Department of Health Policy & Management, Harvard School of Public Health

William R. Brody, M.D., Ph.D.

President, Johns Hopkins University

Roger J. Bulger, M.D.

President & CEO, Association of Academic Health Centers

Donna L. Cameron, J.D.

Executive Vice President, General Counsel & Corporate Compliance Officer, Lahey Clinic

Gerhard Casper

President Emeritus, Stanford University

John T. Casteen III, Ph.D.

President, University of Virginia

Thomas C. Cesario, M.D.

Dean, College of Medicine, University of California, Irvine

John G. Clarkson, M.D.

Senior Vice President for Medical Affairs & Dean, University of Miami School of Medicine

Scott S. Cowen, D.B.A.

President, Tulane University

William H. Danforth, M.D.

Chancellor Emeritus, Washington University in St. Louis

Helen Darling

President, National Business Group on Health

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Dean Emeritus & Professor of Law, University of Denver Sturm College of Law

William B. Deal, M.D.

Senior Vice President & Dean Emeritus, University of Alabama School of Medicine

Michael E. DeBakey, M.D.

Chancellor Emeritus, Baylor College of Medicine

Hon. Dennis DeConcini

Former U.S. Senator from Arizona

Christopher DeMuth

President, American Enterprise Institute

Vivian M. Dickerson, M.D., F.A.C.O.G.

President, American College of Obstetricians and Gynecologists

Hon. David F. Durenberger

Chairman, National Institute of Health Policy; Former U.S. Senator from Minnesota

Paul M. Ellwood, M.D.

President, Jackson Hole Group

Alain C. Enthoven, Ph.D.

Marriner S. Eccles Professor of Public & Private Management Emeritus, Stanford University

Gregory C. Farrington, Ph.D.

President, Lehigh University

Arthur Garson, Jr., M.D., M.P.H.

Vice President & Dean, School of Medicine, University of Virginia

Hon. Newt Gingrich

Founder, Center for Health Transformation; Former Speaker of the U.S. House of Representatives

Alice G. Gosfield

Alice G. Gosfield & Associates, P.C.; Former Chair, National Committee for Quality Assurance; Former President, American Health Lawyers Association

Robert W. Hahn, Ph.D.

Executive Director, AEI-Brookings Joint Center; Resident Scholar, American Enterprise Institute

Martin J. Hatlie, J.D.

President, Partnership for Patient Safety; Co-Founder, Consumers Advancing Patient Safety

“Unreliable justice is driving good ob-gyns out of practice, scaring medical students away from obstetrics and gynecology, and leaving women across the nation without prenatal and delivery care. Healthcare courts are an idea whose time has come for doctors and, most importantly, for our patients.”

Vivian M. Dickerson, M.D., F.A.C.O.G.

President, American College of Obstetricians and Gynecologists

Howard H. Hiatt, M.D.

Co-Chief, Division of Social Medicine & Health Inequalities, Brigham & Women's Hospital; Professor of Medicine, Harvard Medical School

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Partner, Covington & Burling;
Former U.S. Deputy Attorney General

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Former Governor of New Jersey

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Charles E.M. Kolb

President, Committee for Economic Development

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Chairman & CEO, UnitedHealth Group

Arnold Milstein, M.D., M.P.H.

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Mercer Human Resource Consulting

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Deaconess Medical Center

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Former Vice Chairman, Medtronic

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University of Miami School of Medicine

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& Human Services

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President, The George Washington University

Thomas R. Tritton, Ph.D.

President, Haverford College

Abraham Verghese, M.D.

Marvin Forland Distinguished Professor &
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Ethics, UTHSC San Antonio

Gail L. Warden

President Emeritus, Henry Ford Health System

Paul C. Weiler

Henry J. Friendly Professor of Law,
Harvard Law School

Josh S. Weston

Former CEO, Automatic Data Processing, Inc.

R. Sanders Williams, M.D.

Dean, Duke University School of Medicine

**More people are signing on
every day to help Common
Good establish health courts.
Visit www.cgood.org for more
information.**

Institutional affiliations are included only for
identification purposes and do not reflect the
views of those institutions.

Coming Together for Our Common Good

“Our nation was built on a foundation of reliable law. Fixing American healthcare requires a basic shift in approach, aimed at making justice reliable for both patients and doctors.”

Philip K. Howard

Chair, Common Good

America was built with a spirit of common sense and cooperation. Our nation's founders erected schools and hospitals because these common institutions were essential to a vigorous and free society. Today, the American legal system has unintentionally undermined this cooperative spirit. Legal fear is infecting daily choices, inhibiting doctors, teachers, little league coaches and others from making the reasonable judgments needed to serve the common good.

Common Good is a bipartisan coalition dedicated to restoring common sense to America. Working with experts in different fields, Common Good is developing practical solutions to restore reliability to American law, so that Americans in all walks of life feel free to do what is right and reasonable.

Common Good's board is composed of leaders in every field, including political figures from both parties such as Tom Kean, George McGovern, Newt Gingrich, Alan Simpson and Griffin Bell. Common Good's Chair, Philip K. Howard, is a prominent lawyer, civic leader and bestselling author (*The Death of Common Sense* and *The Collapse of the Common Good*).

“The current medical liability system is undermining patient safety. By creating incentives to hide errors, blame and never apologize, it fuels the epidemic of medical errors and consumer distrust. Piecemeal tort reform is not a solution. We must create a system of justice that can make the deliberate choices needed to fix healthcare and restore integrity in both law and medicine.”

Martin J. Hatlie, J.D.

President, Partnership for Patient Safety;

Co-Founder, Consumers Advancing Patient Safety

"Reform is urgently needed. We cannot afford to have doctors quit or for doctors to order unnecessary tests because of legal fear. We must create a system of justice reliable for patients and doctors alike."

Herbert Pardes, M.D.

President & CEO,
New York-Presbyterian Hospital



Help Us Create a System of Reliable Health Courts

The time for action is now. You have the power to make a difference.

Help us spread the word about reliable medical justice. For more information, or for more of these brochures, visit our website www.cgood.org where you can:

Join our coalition and register your support for health courts.

Spread the word by emailing this brochure to your friends.

Or, mail this coupon to: Common Good, 675 Third Ave., 32nd Floor, New York, NY 10017

I'm a supporter of special health courts. Keep me informed of developments. Let me know how I can help. Mail me more brochures.

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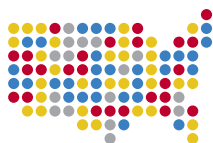
Zip _____

Phone _____

Email _____

With your help we will restore reliability to medical justice and improve healthcare for everyone.

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