

**Statement of Will Marshall, PPI President and  
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The Progressive Policy Institute applauds Sens. Max Baucus and Mike Enzi and Reps. Jim Cooper and Mac Thornberry for introducing the “Fair and Reliable Medical Justice Act.” The current medical malpractice liability system is fundamentally flawed producing high health care costs and doing little to prevent medical injuries. This legislation is a critical first step toward reform.

The Fair and Reliable Medical Justice Act would authorize states to serve their roles as "laboratories of democracy," and provide grants to test alternatives to current tort system for medical malpractice claims. It would allow states to test the idea of a health court.

As PPI explains in the report, “Health Courts: Fair and Reliable Justice for Injured Patients” by Nancy Udell and David B. Kendall, the flaws in the current medical justice system run deep:

It does not give most injured patients access to justice, and it does not send clear signals about standards of care that would help health care providers avoid medical mistakes.

Studies of medical malpractice in several states show that only two percent of patients injured by negligent care in a hospital file malpractice claims.

Unlike the current system that takes three to five years to resolve a case, a health court would provide a speedy alternative. It would work like workers compensation where injured employees do not need to hire a lawyer to receive compensation in most cases. Patients would submit a claim form about an injury, and a health court review board would investigate and award compensation automatically if the claim fit a predetermined medical malpractice scenario. If the claim presented new or unclear circumstances, then the review board would steer the case to a full trial in a health court with legal representation for both sides. Specialized judges would preside over the health court and use court-appointed expert witnesses to provide a foundation for rulings on standards of care that should become legal precedents.

Doctors and hospitals need clear and consistent legal precedents to guide them toward investing in measures that reduce patients’ injuries. The Institute of Medicine has reported as many as 98,000 patients die in hospitals every year due to preventable medical errors. Medical error injuries are also expensive to treat.

Some of the nation's most prestigious medical institutions are willing to step up and serve as laboratories for health court experiments: New York-Presbyterian, Duke University Medical School, Emory Healthcare, University of Miami Medical School, Johns Hopkins Medicine, and Yale Medical Group.

It’s time to give health courts a chance to show that medical justice should be part of a national agenda for lowering health care costs while improving access to justice for injured patients and the quality of health for all.