

Summary of Testimony of Paul J. Barringer, III
Before the U.S. House of Representatives
Committee on Energy and Commerce, Subcommittee on Health
July 13, 2006

My name is Paul Barringer and I am General Counsel of Common Good, a bipartisan legal reform coalition. We have been active in promoting the concept of developing special courts to handle medical injury litigation. With support from the Robert Wood Johnson Foundation, we are currently working with the Harvard School of Public Health to refine a proposal for health courts.

Today's medical liability system compensates too few injured patients, has high administrative costs, provides little deterrent effect for substandard practices, and hinders quality improvement by discouraging reporting of information about adverse events. It also contributes to escalating health costs. The evolving Common Good-Harvard health court model would address these failings by expanding compensation to injured patients, facilitating expedited and efficient resolution of claims, ensuring reliable decision making about standards of care, and promoting greater transparency about errors. It could also help reduce costly defensive practices, and provide a framework for cost-containment.

Health courts would have trained judges adjudicating medical injury cases, and these judges would rely on neutral expert witnesses. To ensure horizontal equity, non-economic damages would be determined via a schedule of benefits relating to patient circumstances and severity of injury. Health courts would be explicitly linked to patient safety structures to ensure reporting of information about errors and "near misses."

To date, the health court concept has drawn support from a wide array of stakeholders, including patient safety advocates, consumer groups, public health and legal experts, national and regional press, and health care provider groups.