



Frequently Asked Questions on the Medical Liability Reform Provisions in H.R. 3590

1. Does the Senate health system reform bill (H.R. 3590) include any provisions on medical liability reform?

Yes. H.R. 3590 includes the following provisions:

- Authorizes the Secretary of Health and Human Services (HHS) to award grants to states for the development, implementation, and evaluation of alternatives to current tort litigation. Also, includes a provision that would allow patients to opt-out of these alternatives at any time and pursue their liability claim in court;
- Extends medical liability protections under the Federal Tort Claims Act (FTCA) to officers, governing board members, employees, and contractors of free clinics; and
- Authorizes a Government Accountability Office (GAO) study and report on whether the development, recognition, or implementation of guidelines, standards, or payment adjustments (e.g., health care acquired conditions) specified in multiple sections of the bill would result in new causes of action or claims against health care providers.

2. What are the requirements for States that want to take advantage of the grants to test an alternative liability reform?

States would be required to develop an alternative liability reform that: (1) allows for the resolution of disputes over injuries allegedly caused by health care providers or organizations; and (2) promotes a reduction of health care errors by encouraging the collection and analysis of patient safety data. Each state would have to identify the sources from and methods by which compensation would be paid, and demonstrate that its proposed alternative to tort litigation meets certain goals and criteria.

Each state receiving a grant would be required to submit a report to the Secretary of HHS covering the impact of the activities funded on patient safety and on the availability and price of medical liability insurance.

3. Would a State be eligible for a grant to test a health court model?

Yes, as long as the State satisfactorily meets the requirements addressed above (see response to question 2 above).

4. Can States that already have liability reforms in place (e.g., caps on damages) apply for a grant to pursue additional liability reforms?

Yes. There is no provision in H.R. 3590 that would disqualify a State from the grant program if the State already has liability reform programs in place, including caps on damages.

5. How does the grant application and review process work?

Details will be provided by the Secretary of HHS on the application process. The Secretary would be required to consult with a review panel composed of relevant experts appointed by the Comptroller General when reviewing states' applications.

6. Does the alternative liability reform grant program in H.R. 3590 affect liability reforms already in place in States?

No. The alternative liability reform grant program would not limit any prior, current, or future efforts of any state to establish any medical liability reform.