

Meaningful Medical Liability Reform

By U.S. Representative Phil Gingrey (R-GA), M.D.

As a physician, I came to Congress with health care reform as my principle goal. I know that our health care system is the best in the world, but I do believe some commonsense reforms could make it even better – particularly from a cost and access to care perspective. Additionally, I am acutely aware that true health care reform cannot be achieved without meaningful medical liability reform, particularly when it comes to cost containment.

Whatever my policy differences may be with the Patient Protection and Affordable Care Act – and they are unapologetically significant – I was deeply disappointed that no attention was paid to medical liability reform in its roughly 1,000 pages. If we are truly interested in strengthening the doctor-patient relationship through health care reform, I would suggest we begin with meaningful liability reform.

The legislation I just introduced with Congressman John Fleming (R-LA), the Meaningful End to Defensive Medicine & Aimless Lawsuits (MedMal) Act of 2010, H.R. 5690, will strengthen the ability of doctors and patients to work together outside of a court room to address medical incidents, which will unquestionably yield significant savings. The legislation will also strengthen our current medical tort system – building off of past liability reform standards – by protecting the benevolent gestures of patients and providers, requiring that expert witness testimony in all cases actually come from an expert, ensuring that each party in a lawsuit is responsible for their own fault but not the fault of others, and creating safe harbors for providers who prescribe medications appropriately.

As a medical provider, I want to ensure that my fellow physicians can work with their patients constructively to address valid medical incidents instead of relying exclusively on the courts. In addition, I believe that any meaningful liability reform must strengthen and stabilize our current system of litigation to reduce meritless claims and limit non-economic damage awards that drive up costs for liability insurers and providers. Such commonsense measures could significantly reduce the cost of health care for patients, physicians, and our government by reducing needless testing due to the practice of defensive medicine. Furthermore, reforming our current court system will reduce legal abuse and increase the likelihood that justice will truly be served.

If we are to be successful in reducing health care costs due to defensive medicine, our legislation must stabilize the medical liability insurance market. Therefore, the MedMal Act builds off of my existing proposal, the Health Act, which is based on the California MICRA law of the 1970s that has become the model for many successful state medical liability initiatives. However, it also incorporates the messaging strengths of the recent health care debate – namely, reforms that seek to strengthen the doctor-patient relationship.

Congressman Fleming and I will continue to work with our colleagues in the next Congress to pass comprehensive medical liability reform. However, if we are ever to build enough

momentum to pass legislation at the federal level, we are going to need the support of your industry. Therefore, we will look forward to engaging your association and industry leaders over the coming months to move this critical proposal forward.

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Dr. Gingrey represents Georgia's 11th Congressional district and is a member of the House Energy and Commerce Committee.