



For Immediate Release

Contact: Craig Orfield
(202) 224-6770

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***ENZI PUSHES FOR OVERHAUL OF MEDICAL LIABILITY SYSTEM;
SEEKS JUSTICE FOR PATIENTS, HEALTHCARE PROVIDERS***

Washington, D.C. - Saying the medical liability system needs to be repaired to work better for both patients and doctors, U.S. Senator Mike Enzi (R-WY), Chairman of the Senate Health, Education, Labor and Pensions (HELP) Committee today called for reforms that will deliver quick and fair compensation to injured patients, while providing consistent and reliable results so that doctors can eliminate defensive medicine and learn from medical errors.

“The medical litigation system urgently needs first-aid,” Enzi said. “It is important that injured patients are compensated for injuries in a fast fair fashion. But it is important that try we keep doctors in the operating room and not in the court room. When someone has a medical emergency they want to see a doctor, not a lawyer.”

Enzi chaired a hearing today to focus on the growing need for medical liability reforms, and to review bills offered to address the growing problem.

An Institute of Medicine study, *“To Err is Human,”* estimated that preventable medical errors kill somewhere between 44,000 and 98,000 Americans each year. In the seven years since that study, little progress has been made as the practice of medicine has become more specialized and complex and the tort system has forced more focus on individual blame than on system safety.

“Although we would expect our tort system to lead to fewer medical errors, it has not,” Enzi added. “Perhaps we could live with this flawed system if litigation served to improve quality or safety, but it doesn't. Litigation discourages the exchange of critical information that could be used to improve the quality and safety of patient care.”

The constant threat of litigation also drives the inefficient, costly and even dangerous practice of “defensive medicine,” which occurs when a doctor departs from doing what is best for the patient because of fear of a lawsuit. Defensive medicine can mean ordering more tests or providing more treatment than necessary. Some estimates suggest that Americans will pay \$70 billion for defensive medicine this year.

Enzi's "Reliable Medical Justice Act," S. 1337, co-sponsored by Senator Max Baucus (D-MT), would take a fresh approach to solving the medical liability problem by authorizing funding for states to create demonstration programs to test alternatives to current medical tort litigation.

The bill outlines three possible model programs that the Secretary of Health and Human Services may fund:

- Early Disclosure and Compensation – a state would establish a program to provide health care providers with immunity from lawsuits in exchange for making a timely offer to compensate an injured patient for his or her net economic loss, plus a scheduled payment for pain and suffering if appropriate. Patients could still go to court if a provider chose not to make an offer of compensation under this model.
- Administrative Determination of Compensation – a state would set up classes of avoidable injuries and establish an administrative board to resolve claims related to those injuries. The state would have the option to choose whether to administer the program as a fault-based or no-fault model. The administrative board would develop a schedule of compensation that would include payment for the patient's net economic loss, plus a scheduled payment for pain and suffering if appropriate.
- Special Health Care Court – a state would establish a special court for adjudication of disputes over injuries allegedly caused by health care error. The state would ensure that the presiding judges have expertise in and understanding of healthcare. Such judges would make binding rulings on causation, compensation, standards of care, and related issues.

“We clearly have a crisis on our hands,” Enzi concluded. “While we continue to debate in Washington, we ought to lend a hand to states and encourage them to create alternatives that would be more fair and predictable for both patients and healthcare providers. It is time for a change. We need a system that restores a sense of order and proportion. S. 1337 would put us on that path.”

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