



CENTER FOR JUSTICE & DEMOCRACY
185 WEST BROADWAY
NEW YORK, NY 10013
TEL: 212.431.2882
centerjd@centerjd.org
<http://centerjd.org>

H.R. 1215: The “Protecting Access to *Unsafe Care Act of 2017*”

The U.S. House of Representatives is considering new legislation to greatly weaken the accountability of unsafe hospitals, incompetent doctors, nursing homes and pharmaceutical companies that injure or kill patients.

Among H.R. 1215’s many harsh provisions is a federal government mandate on the value of a life. That same mandate applies whether a parent loses a child, a senior citizen is harmed in a nursing home, or a family breadwinner is permanently disabled due to reckless medical care.

H.R. 1215 takes away rights that Americans currently have, which are guaranteed by state governments around the nation.

And it takes power from local juries to decide individual cases, consolidating that power in the hands of Washington DC politicians.

Provisions include:

- A federally-mandated across-the-board \$250,000 “cap” on compensation for “non-economic” injuries (like paralysis, trauma, reproductive harm), which would be mandated in states even where such caps are unconstitutional.
- A federally-mandated statute of limitations - the time limit for someone to file a meritorious lawsuit - which is more restrictive than a majority of state laws.
- Federal repeal of state collateral source rules, meaning a wrongdoer can reduce their obligation to compensate a patient by the amount of disability, workers compensation or other insurance received, to which a patient has a right.
- Federal repeal of state joint and several liability laws, meaning that the injured patient – not other fully-responsible wrongdoers - would have to cover the cost of an injury if one of the fully-responsible wrongdoers cannot pay.
- A federally-mandated prohibition against a severely-injured patient receiving a full jury award in a lump sum, leaving the patient vulnerable and undercompensated while the insurance company gets to sit on the money and pocket the interest.

- Federal interference with an individual's right to contract with their own attorney on fees (while the insurance company or hospital that committed malpractice has no such restriction).
- A federally-mandated ban on including a hospital, nursing home or health care provider in a case against a drug company over an unsafe drug, even if the provider negligently prescribed or administered the drug and is jointly responsible for causing injury or death.
- Federal replacement of rights guaranteed by every state government. Most every provision in H.R. 1215 would override individual rights guaranteed by states, only allowing state laws to survive that are more harmful to patients.

Scope of the bill:

- **Two-tiered system of justice.** H.R. 1215's civil justice restrictions apply to patients receiving health care provided through a "federal program, subsidy, or tax benefit." Therefore at a minimum, those expressly punished by this bill are families receiving health care through the Affordable Care Act, veterans and servicemembers covered by federal health plans, and Medicare and Medicaid recipients (i.e., the elderly, poor and disabled). Beyond this, the full scope is unclear because the bill has not been examined in a single legislative hearing.
- **More than just medical malpractice.** The bill's expansive definitions, including "health care lawsuit" "health care provider" and "health care liability claim," make clear that those benefiting from this legislation will be not only unsafe hospitals but also dangerous for-profit nursing homes, insurance companies that wrongly deny coverage, makers of unsafe drugs and devices, and even doctors who sexually abuse patients.

###