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If You Care About: THE ENVIRONMENT You Should Care About: MEDICAL MALPRACTICE PROVISIONS IN ACA REPLACEMENT BILLS

Most Affordable Care Act replacement proposals would deprive Americans harmed by negligent hospitals or incompetent physicians of legal rights guaranteed by state and local governments. These provisions would open the door to potentially massive interference with state laws that help victims of environmental harm.

- Medical malpractice laws are a subgroup of a much larger category of “tort” or liability laws – unique to each state. These laws provide rights to seek justice in court not only for those harmed by unsafe medical practices and products but also for victims of environmental harm, including oil spills, chemical explosions and other forms of toxic pollution.¹
- It has been a bedrock principle of our democracy that Congress should not interfere with state tort laws. In fact, a number of conservative Tea Party Members of Congress have opposed federal medical malpractice legislation for this very reason.
- Since the 1970s, Big Business has been unsuccessfully trying to crack this barrier and take away state tort rights in three major areas: auto crashes, products liability and medical malpractice.
- The public interest community has pushed back very hard against such attempts for two reasons:
 - The proposals would eliminate important legal rights for everyday Americans.
 - Once Big Business succeeds for the first time in overriding state tort law in one major area, constitutional principles that have blocked Congress from doing this become severely damaged. *This leaves the door wide open for Congress to try to override state tort law in any area.*

For these reasons, it is critical to stop Congress from enacting medical malpractice proposals that weaken or eliminate patients’ legal rights. This fight is winnable. Please contact the Center for Justice & Democracy for more information: centerjd@centerjd.org

¹ See, Center for Justice & Democracy, *Lifesavers 2016: CJ&D’s Guide to Lawsuits that Protect Us All*, <https://centerjd.org/content/lifesavers-2016>; Center for Justice & Democracy, *How the Civil Justice System Protects Environmental Health*, October 2007, <https://centerjd.org/content/study-how-civil-justice-system-protects-environmental-health>.