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Medical Review of Malpractice and
Health Related Cases In All Medical Specialties

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House Health Subcommittee Hearing Considers Alternatives To Caps On Noneconomic Damages In Malpractice Cases

House Energy and Commerce [Subcommittee on Health](#) members on Thursday "pledged to work together to develop new solutions" to medical malpractice reform, CQ HealthBeat reports. Since 1995, the House eight times has approved legislation to limit noneconomic damage awards in medical malpractice suits to \$250,000, but the Senate has voted against them. According to [CQ HealthBeat](#), lawmakers are divided over whether a cap is essential for reform and whether "such an approach fails to focus on what [some lawmakers] believe is the real root of the problem: insurers making hefty profits on liability insurance premiums for physicians and other health care providers." Subcommittee Chair Nathan Deal (R-Ga.) said, "Everything is on the table, and we are open to looking at a variety of different proposals. We will continue to fight for meaningful medical liability reform until the job is done." Michelle Mello, associate professor at [Harvard School of Public Health](#), in testimony at the hearing, said, "My work has led me to conclude that our medical liability system is in need of significant reform and that the conventional array of tort-reform options will not get us where we need to be. Farther-reaching changes are required." Paul Barringer, general counsel for [Common Good](#), advocated for the use of medical malpractice "health courts," which he said would depend on the standard of "avoidability" rather than narrower standard of negligence. Jeffrey O'Connell, a law professor at the [University of Virginia](#), said another reform called "early offer" would give medical liability insurers an option to make a settlement offer within 180 days after a claim is filed that would be equal to a patient's net economic loss and "reasonable" legal fees. Patients could reject the offer, but legal standards for burden of proof and the level of misconduct would be raised in the ensuing litigation. Joanne Doroshow, executive director of the [Center for Justice and Democracy](#), said reforms such as health courts would "tilt the legal playing field heavily in favor of insurance companies that represent health care providers" (Carey, CQ HealthBeat, 7/13).

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