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## **U.S. SENATORS MIKE ENZI AND MAX BAUCUS INTRODUCE BIPARTISAN LEGISLATION TO CREATE SPECIAL HEALTH COURTS**

### **The Bill, Advancing An Idea Championed By Common Good, Would Authorize Funding For States To Create Health Courts On A Pilot Project Basis**

WASHINGTON, DC – June 30, 2005 – Common Good, the bipartisan legal reform coalition, announced today that Senator Michael Enzi (R-WY) and Max Baucus (D-MT) have introduced legislation in the U.S. Senate to create special health courts on a pilot project basis. Known as the Fair and Reliable Medical Justice Act, the bill is backed by a broad coalition of patient advocates and providers and responds to the Institute of Medicine’s call for the development of alternatives to current medical tort litigation. Sen. Enzi is Chair of the Senate Committee on Health, Education, Labor, & Pensions. Committee hearings on the legislation are expected later this year.

The bill’s purpose is:

- to restore fairness and reliability to the medical justice system by fostering alternatives to current medical tort litigation, including the creation of a special health care court, that promote early disclosure of health care errors and provide prompt, fair, and reasonable compensation to patients who are injured by health care errors;
- to promote patient safety through early disclosure of health care errors; and
- to support and assist states in developing such alternatives.

The bill would authorize the U.S. Secretary of Health and Human Services to award up to 10 demonstration grants to states for the development, implementation and evaluation of alternatives to current tort litigation for resolving disputes over medical errors. Within that context, the bill specifically authorizes the creation of a special health care court. The hallmark of such a court would be full-time judges with health care expertise, whose sole focus would be on addressing medical malpractice cases.

“This important bill, introduced by Senators Enzi and Baucus, points the way to making justice in health care serve our common goals,” said Philip K. Howard, Chair of Common Good. “Special health courts can offer reliable justice for doctors and patients alike, while providing affirmative rulings to improve patient safety. Both Senators deserve great praise for advancing this bipartisan initiative.”

“Reliable and timely decisions by expert courts are needed for real improvements in patient safety, as well as basic fairness,” said Troyen Brennan, MD, M.P.H., a Professor at the Department of Health Policy and Management at Harvard School of Public Health.

“The important legislation introduced by Senators Enzi and Baucus is a very significant step in the right direction.”

“The current medical liability system incentivizes cover-up and blame, fueling the epidemic of medical error,” said Martin J. Hatlie, President of the Partnership for Patient Safety “The legislation introduced by Senator Enzi and Senator Baucus can help create the system of justice that both consumers and providers need to restore trust between them, improve health care and save lives.”

“Health courts are needed to provide fair resolution to both patients and health care providers,” said William L. Roper, M.D., M.P.H., Dean of the School of Medicine and CEO of the University of North Carolina Health Care System. “The legislation introduced by Senators Enzi and Baucus represents an important step in developing a more reliable system of medical justice.”

More than 80 of the nation’s most prominent leaders in health care and law – including patient safety experts and 11 deans of medical schools or schools of public health – have called for the creation of special health courts as a way of restoring reliability to medical justice. Their call was precipitated by inadequacies and inequities in the current system:

- At present, less than two percent of patients with medical injuries due to substandard care file a claim, and even fewer receive compensation. Those fortunate enough to receive compensation will have waited an average of four years in the court system before receiving a dime.
- The current system cannot reliably distinguish good doctors from bad ones, which exposes medical professionals who have done nothing wrong to the risk of ruinous liability. Eighty percent of claims involve situations where doctors did no wrong. Nonetheless, plaintiffs receive compensation in a quarter of these cases.
- The current system harms patient quality and safety. Fear of litigation drives costly and inefficient “defensive medicine,” while creating incentives for health care providers to cover up their own mistakes and the mistakes of their colleagues. This culture of silence prevents doctors from learning from mistakes, and leads to needless suffering and death.

A copy of the bill is available on Common Good’s web site at [www.cgood.org](http://www.cgood.org). For further information, contact Danielle Rhoades at (212) 576-2700 or visit [www.cgood.org](http://www.cgood.org).

*Common Good is a bi-partisan legal reform coalition dedicated to restoring common sense to American law. Its board is composed of leaders in a wide range of fields: former government officials, including Howard Baker, Bill Bradley, Griffin Bell, Newt Gingrich, Eric Holder, George McGovern, Diane Ravitch, Alan Simpson, and Richard Thornburgh; current and former university presidents, including Tom Kean, George Rupp, and John Silber, and numerous other leaders in education, health care, law, business and public policy. The Chair of Common Good is Philip K. Howard, a lawyer and author of The Death of Common Sense and The Collapse of the Common Good.*