



## **Will National Health Care Reform (HR 3590) Inadvertently Create New Types of Medical Liability?**

There are 14 provisions in the health care reform law, HR 3590, that could unintentionally expose physicians and hospitals to new forms of medical liability. Congressional leadership did not adopt proposed language that would have made it clear that no new forms of medical liability are intended. Instead, Congress agreed to a study of whether these provisions will result in the establishment of new causes of action or claims. Section 3512 of HR 3590 identifies the 14 provisions of concern to us. It reads as follows:

### **SEC. 3512. GAO STUDY AND REPORT ON CAUSES OF ACTION.**

(a) Study-

(1) IN GENERAL- The Comptroller General of the United States shall conduct a study of whether the development, recognition, or implementation of any guideline or other standards under a provision described in paragraph (2) would result in the establishment of a new cause of action or claim.

(2) PROVISIONS DESCRIBED- The provisions described in this paragraph include the following:

- (A) Section 2701 (adult health quality measures).
- (B) Section 2702 (payment adjustments for health care acquired conditions).
- (C) Section 3001 (Hospital Value-Based Purchase Program).
- (D) Section 3002 (improvements to the Physician Quality Reporting Initiative).
- (E) Section 3003 (improvements to the Physician Feedback Program).
- (F) Section 3007 (value based payment modifier under physician fee schedule).
- (G) Section 3008 (payment adjustment for conditions acquired in hospitals).
- (H) Section 3013 (quality measure development).
- (I) Section 3014 (quality measurement).
- (J) Section 3021 (Establishment of Center for Medicare and Medicaid Innovation).
- (K) Section 3025 (hospital readmission reduction program).
- (L) Section 3501 (health care delivery system research, quality improvement).
- (M) Section 4003 (Task Force on Clinical and Preventive Services).
- (N) Section 4301 (research to optimize deliver of public health services).

(b) Report- Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress, a report containing the findings made by the Comptroller General under the study under subsection (a).

Meanwhile, efforts continue to promote legislation that would protect physicians and hospitals from any new medical liability causes of action based on the provisions of the health care reform law and resulting regulations.