

**COMMITTEE ON THE JUDICIARY
FULL COMMITTEE MARKUP
FEBRUARY 9 and 16, 2011**

AMENDMENT OVERVIEW

H.R. 5, the “Help Accessible, Efficient, Low-cost, Timely Healthcare (HEALTH) Act”

The HEALTH Act contains comprehensive federal tort reform for health care lawsuits

No.	Sponsor	Description	Results
1.	Conyers (MI)	Exempts claims based on intentional tort liability from the bill’s limits. (HRB_102)	Fails 10-19
2.	Waters (CA)	Excludes medical products that are defective as result of negligence in the manufacture or distribution of the product from the bill’s punitive damage exemption for products that comply with FDA Standards. (HRB_111)	Fails 11-16
3.	Nadler (NY)	Adds section regarding “Restrictions on Protective Orders and Sealing of Cases and Settlements.” (JWG_020)	Fails 10-15
4.	Nadler (NY)	Increases the bill’s \$250,000 cap to \$1,977,500 and indexes it to the Consumer Price Index. (JWG_012)	Fails by voice vote
6.	Sanchez (CA)	Adds section exempting nursing homes from limitation of damages. (HRB_104)	Fails 11-14
7.	Chu (CA) Conyers (MI) Johnson (GA)	Adds section applying antitrust laws to health sector insurers. (HRB_105)	Fails 13-13
8.	Wasserman Schultz (FL) Johnson (GA)	Adds section exempting actions by minors from limitations of damages. (HRB_106)	Fails 14-18
9.	Wasserman Schultz (FL) Johnson (GA)	Changes the timeframe related to the manifestation or discovery of an injury related to a minor. (HRB_107)	Fails 14-18
10.	Wasserman Schultz (FL) Johnson (GA)	Combines Amendment #8 and Amendment #9. (HRB_108)	Not Introduced
11.	Jackson Lee (TX)	Adds section exempting health care lawsuits for irreversible injury. (HRB_109)	Fails 13-19
12.	Cohen (TN)	Adds section exempting from damage limitations lawsuits related to a foreign object being left inside a patient or performing a procedure on the wrong patient or body part. (HRB_110)	Fails 14-19

13.	Scott (VA)	Strikes provision establishing a Fair Share rule. (JWG_017)	Fails 14-20
14.	Scott (VA)	Strikes the bill's provisions relating to the collateral source rule, including the definition of "collateral source benefits." (JWG_021)	Adopted by voice vote
15.	Quigley (IL)	Strikes punitive damage exemption for products that comply with FDA Standards. (JWG_016)	Fails 16-20
16.	Johnson (GA)	Strikes references to State, Federal or ADR court/systems and replaces with "Federal Court." (JWG_013)	Fails 16-19
17.	Johnson (GA)	Excludes Act from preempting applicable State constitutional provisions. (HRB_101)	Fails 16-18
18.	Johnson (GA)	Strikes provisions applying the Act to health care organizations and manufacturers, distributors, suppliers, marketers, promoters and sellers of medical products. (HRB_103)	Fails 16-19
19.	Deutch (FL)	Applies H.R. 5 to suits by health care providers, health care organizations, and pharmaceutical and device manufacturers. (HRB_113)	Fails 15-20
20.	Berman (CA) Chu (CA)	Prevents H.R. 5 from applying in a state until that state's medical and insurance regulators establish reporting requirements regarding health care claims and medical disciplinary actions. (BERMAN_150)	Not Introduced
21.	Waters (CA)	Exempts claims involving preexisting condition exclusions from the bill. (HRB_114)	Fails 14-20
22.	Waters (CA)	Amends the McCarran-Ferguson Act to clarify the application of antitrust laws to medical malpractice insurers (similar to H.R. 4626, 111th Congress.) (WATERS_006)	Fails 14-19
23.	Waters (CA)	Strikes exemption from punitive damages for medical products that are generally recognized among qualified experts as safe and effective pursuant to conditions and regulations established by the Food and Drug Administration. (WATERS_146)	Not Introduced
24.	Waters (CA)	Provides for punitive damages in cases in which a medical product that otherwise complies with FDA standards is defective as a result of negligence in the manufacture or distribution of that product. (HRB_111)	See Waters Amendment #2
25.	Waters (CA)	Allows for unlimited non-economic damages in cases brought for a catastrophic injury, a vegetative state, or death. (WATERS_145)	Not Introduced

26.	Jackson Lee (TX)	Adds section requiring liability insurers to file a report with the Attorney General if they increase liability premiums in a year in which the number of health care lawsuits or the amount of damages in such lawsuits decrease. (HRB_112)	Ruled Not Germane
27.	Nadler (NY)	Indexes the bill's \$250,000 cap to the Consumer Price Index. (JWG_012)	Fails 15-18
28.	Jackson Lee (TX)	(JACKSO_074)	Fails 13-19
31.	Deutch (FL)	(DEUTCH_015)	Fails 15-19
30.	Quigley (IL)	(QUIGLE_023)	Fails by voice vote
33.	Scott (VA)		Fails by voice vote
34.	Nadler (NY)		Fails by voice vote