

Poll: Support for curbs on malpractice lawsuits

November 19 2009, By RICARDO ALONSO-ZALDIVAR and TREVOR TOMPSON , Associated Press Writers

(AP) -- Most Americans want Congress to deal with malpractice lawsuits driving up the cost of medical care, says an Associated Press poll.

Yet Democrats are reluctant to press forward on an issue that would upset a valuable political constituency - trial lawyers - even if President [Barack Obama](#) says he's open to changes.

The AP poll found that 54 percent of Americans favor making it harder to sue [doctors](#) and hospitals for mistakes taking care of patients, while 32 percent are opposed. The rest are undecided or don't know.

Support for limits on malpractice lawsuits cuts across political lines, with 58 percent of independents and 61 percent of Republicans in favor. Democrats are more divided. Still, 47 percent said they favor making it harder to sue, while 37 percent are opposed.

The survey was conducted by Stanford University with the nonprofit Robert Wood Johnson Foundation.

Limits on jury awards in malpractice cases could reduce the federal deficit by \$54 billion over 10 years, says the Congressional Budget Office, because doctors caring for Medicare and [Medicaid patients](#) would order up fewer tests to guard against being sued.

"In this country, there are just too many people who are just out for a

quick buck," said Christine Vasquez, 67, a retiree from Clarkston, Mich. "I think our insurance costs would go way down if (doctors) didn't have to be so scared to be sued all the time."

In the poll, 59 percent said they thought at least half the tests doctors order are unnecessary, ordered only because of fear of lawsuits.

The issue pits two of the most powerful lobbies in Washington against each other: doctors and trial lawyers.

Doctors complain that fear of frivolous lawsuits prompts them to practice defensive medicine, running up costs. They say malpractice insurance premiums are so high in parts of the country that some doctors avoid certain areas, even relocate.

Lawyers argue that limits on lawsuits infringe on the constitutional right of each citizen to have his or her day in court. And they point out that 44,000 to 98,000 people die in hospitals each year as a result of medical errors - from misdiagnosis to getting the wrong medication - a glaring problem for a country that prides itself on the world's most advanced medical care.

The poll suggests that patients see medical errors as fairly common. Twelve percent of those who'd been in the hospital in the past five years - and 10 percent of those who'd been to the doctor in that time period - said they thought there had been a mistake in their treatment. People were more forgiving of errors in the doctor's office than in hospitals.

Republicans have been sympathetic to the complaints of doctors, while Democrats tend to line up with the lawyers. Over the years, the two sides have fought each other to a standstill.

Obama tried to open a middle way, agreeing with doctors that defensive

medicine is a problem but disagreeing with their specific prescription of placing limits on jury awards.

Such limits can work against people who have suffered the most harm. A family whose youngster was left brain-damaged by an anesthesiologist's mistake probably wouldn't be able to offset the costs of lifelong care.

Instead, Obama wants to develop alternatives to going to court, such as programs through which doctors and hospitals own up to mistakes, offer restitution and take corrective action to prevent other patients from being harmed. His administration is providing \$25 million in grants for states to experiment with alternatives to lawsuits.

Congress could give a boost to these experiments by providing temporary federal protection from being sued to hospitals and doctors who take part. But Democrats are having none of it, perhaps mindful that lawyers are among their party's most generous campaign contributors. And Republicans, by their lockstep opposition to the health care bill, have given up the leverage they might have had to get malpractice curbs included.

"The bill addresses one of the problems with the health care system, which is lack of coverage, but it doesn't address the root causes of an extraordinarily inefficient delivery system," said Philip Howard, founder of Common Good, which advocates for changes to the malpractice system.

Some trial lawyers took issue with the AP survey, saying the poll question did not fully address the harm patients suffer from medical malpractice.

"If (people) knew about the frequency of medical errors, we believe they would have answered this question very differently," said Linda Lipsen,

a top lobbyist for the American Association for Justice, which represents lawyers.

The poll was based on landline and cell phone interviews with 1,502 adults from Oct. 29 to Nov. 8. It has a margin of error of plus or minus 2.5 percentage points. The interviews were conducted by GfK Roper Public Affairs & Media. Stanford University's participation was made possible by a grant from the Robert Wood Johnson Foundation, a nonpartisan organization that conducts research on the health care system.

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