

Center for American Progress



**Safe Harbors and  
Evidence-Based Medicine**

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## Current Environment

- Risk of medical malpractice claims
- Disconnect between lawsuits and adverse events
- Negative impact on physicians
- Harm to patients
  - Injured patients wait for resolution
  - Defensive medicine



## Goals of Reform

- Promote accountability for both decisions and performance
- Compensation for damages and injuries
- Encourage higher level care



## Safe Harbor Proposal

- Development of evidence-based clinical practice guidelines
- Document adherence to those guidelines
- Use quality health information technology systems
- Use clinical decision-support systems that incorporate guidelines



## Safe Harbor Proposal

- The guidelines are presumed to define the legal standard of care
- What does that mean?
  - Patients who bring malpractice claims must show their doctor did not meet the standard of care
  - Standard of care now evidenced-based



## Safe Harbor Proposal

- Patients may still present evidence that the guidelines were not applicable in their case
- Patients may use the guidelines to establish negligence by physicians