



# THE AHA'S FRAMEWORK FOR MEDICAL LIABILITY REFORM

## What is our proposal?

An administrative compensation system (ACS) would be created to compensate patients for injuries that could have been avoided during medical care. Decisions would be made using nationally developed evidence-based clinical guidelines and schedules for compensation amounts. The system would be part of a comprehensive approach to address injuries sustained during care. Robust regulatory and oversight activities would complement the system to protect patients from individual practitioners who may place their safety at risk.

## What are the expected benefits of this system?

- *Quality and patient safety improvements* – Providers would have additional incentive to adhere to clinical protocols and evidence-based care; the focus would be quality and safety, *not defensive medicine*.
- *Broader access to compensation* – The system would reach all eligible patients, not just a few; the amounts would be more consistent across similar cases, and awards would be reasonably predictable for patients; both the process and compensation would be faster.
- *Reasonable compensation* – Patients should be made “whole” for the economic and non-economic costs of injuries..
- *A more efficient system* – The claims process for patients would be simpler and less adversarial; compensation would be delivered with lower transaction costs; liability insurance should become more affordable.

## What would an ACS look like?

- Claims for injury during medical care would be handled through an administrative process administered by the states and could not be brought directly to the courts. Intentional injuries and criminal acts would remain in the courts, outside of this system.
- Compensation would be provided for those injuries that could have been avoided and that meet a minimum threshold of harm. The standard would be whether the injury was avoidable; the negligence standard would not apply.
- Patients who believe they have been injured during medical care would submit a claim to a local panel which, using explicit nationally established decision guidelines and schedules, would make an initial decision about whether an injury was eligible for compensation and, if so, offer compensation. Hospitals, physicians and other providers could take the initiative before a claim is filed and offer compensation using the guidelines and schedules.
- Patients who question the local panel’s decision could bring their claim to an expert panel or administrative law judge who is part of a state system’ patients could ultimately seek review of the decision in court.

## Other support for this framework

- Professor Michelle Mello, co-author of many of the articles referenced in the recent HHS/White House fact sheet on the issue, assisted in framing and shaping this approach.
- The Institute of Medicine has spoken favorably about replacing the tort system with a non-judicial compensation system that is patient-centered and safety-focused.