

Bill no.:	HR 5
Amendment no.:	1f
Date offered:	3/6/03
Disposition:	Not Agreed to by 21 yeas and 26 nays

AMENDMENT TO H.R. 5
OFFERED BY MR. GREEN OF TEXAS

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SENSE OF CONGRESS.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) For more than 200 years the authority to
4 promulgate medical liability laws has rested with the
5 States, allowing each State the autonomy to regulate
6 the resolution of medical liability actions within its
7 border.

8 (2) The States are the repositories of experi-
9 ence and expertise in matters of medical liability.

10 (3) The constitutionality of Federal legislation
11 pre-empting State medical liability laws raises seri-
12 ous questions of constitutional separation of powers.

13 (4) Decades of experience confirm that taking
14 away patients rights does not reduce insurance pre-
15 miums.

16 (5) The Supreme Court in the recent decisions
17 of Pegram et al v. Herdrich, 120 S.Ct. 2143 (2000),
18 and Rush Prudential HMO, Inc v. Moran, 122 S.Ct.
19 2151 (2002) continued to recognize that it is appro-
20 priate for the states to handle health accountability

1 matters because it is an area traditionally left to the
2 States.

3 (6) States should have the opportunity to con-
4 tinue to enact and amend their tort laws.

5 (7) Thirty-seven State legislatures have either
6 considered medical malpractice legislation this past
7 session or are planning to consider it in their next
8 session.

9 (b) SENSE OF CONGRESS.—It is the sense of Con-
10 gress that—

11 (1) Congress should not substitute its judgment
12 for the systems which have thoughtfully evolved in
13 each State over time; and

14 (2) due to the multi-faceted and varied State
15 medical malpractice insurance markets and State
16 tort laws, States can and should act as they see fit
17 to protect their own citizens, including patients and
18 doctors, plaintiffs and defendants, nursing home
19 residents and administrators, hospitals, and health
20 maintenance organizations with respect to liability
21 for injuries that arise as a result of medical neg-
22 ligence.