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Open and Honest: New York Hospitals Test Malpractice Pilot Program

Five hospitals in New York City have joined a 3-year, \$3-million program aimed at decreasing medical malpractice costs. The federally funded program will attempt to cut malpractice-related costs at the five hospitals by (a) revealing medical errors quickly; (b) offering early settlements; and (c) using judicial mediators to assist in settlement negotiations as an alternative to having cases go to jury trials.

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The program is one of several funded by the federal government to encourage hospitals to acknowledge and reduce medical errors.

Four of the hospitals -- Beth Israel Medical Center, Mount Sinai Medical Center, Maimonides Medical Center, and Montefiore Medical Center – will focus on reducing obstetrical errors, while the fifth – New York Presbyterian Hospital – will try to prevent surgical errors.

Judges working as judicial mediators will help patients negotiate disputes with hospitals, though plaintiffs retain the option of seeking a jury trial. In addition, patients who use the judge mediators can have an attorney present during settlement talks.

However, concerns remain about how the program will protect the rights of patients – in particular, the right to a lawyer. Although participation in mediation is voluntary and patients are to be notified of their right to have an attorney represent them during the mediation, the fact that the patient is not required to have an attorney has led to concerns that hospital attorneys could take advantage of unrepresented injured patients and convince them to accept inadequate compensation. Another concern is that promoting a policy of early disclosure and settlement could allow hospitals to escape full liability

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