



Ankin Law Office LLC

Protecting the Rights of Injured Workers

162 W Grand Ave
Chicago, Illinois 60654, United States
Tel: 312-346-8780 or 800-442-6546
Fax: 312-346-8781
Email: howard@ankinlaw.com
Website: www.ankinlaw.com
Blog: www.thechicago-injury-lawyer.com

President Obama and Medical Malpractice Reform



Last month, in a move that many trial attorneys believe will reduce the quality of patient care, President Obama submitted a budget that calls for a major revamping of medical malpractice laws.

As explained in this NPR [article](#), Obama's proposed reform includes provisions that will substantially change the current process, if enacted:

President Barack Obama's budget calls for \$250 million in state grants to revamp medical malpractice laws. The grants would allow states to set up health courts — courts where medically-trained judges, not juries — would decide malpractice cases...

Under a health court system, judges would undergo special medical or scientific training. The court would also hire so-called neutral experts to help judges decide cases. To further streamline the process, judges, not juries would decide these claims...

However, as explained in the article, disposing of jury trials in medical malpractice matters may very well be unconstitutional:

Eliminating a jury is unconstitutional in most states. The U.S. Constitution's Seventeenth Amendment guarantees the right to a jury trial in federal civil cases and some state constitutions, including Minnesota's, also ensure that right.

It remains to be seen whether his proposed changes will be adopted. But, in the meantime, this is an important issue to keep track of, for if his amendments are successful, the litigation of [medical malpractice lawsuits](#) could be dramatically changed—and not necessarily for the better.

Howard Ankin of Ankin Law Office LLC (www.ankinlaw.com) handles [workers' compensation](#) and [personal injury cases](#). Mr. Ankin can be reached at (312) 346-8780 and howard@ankinlaw.com.

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