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NEWS RELEASE

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NEW REPORT FINDS HEALTH INDUSTRY TRIBUNALS TO BE HORRIFIC OPTION FOR MOST PATIENTS

A new study by the Center for Justice & Democracy (CJ&D) finds that Health Industry Tribunals (HITs), or so-called “Health Courts,” are “a horrific option for most patients injured by medical malpractice.” In its study entitled, “Health Industry Tribunals – HITting Patients While They’re Down,” CJ&D strongly condemns proposals developed by the corporate-funded group “Common Good” that would completely eliminate a patient’s rights to jury trial and force them to litigate before biased tribunals.

Joanne Doroshow, CJ&D’s Executive Director, said, “These proposals are being sold to the public as good for patients, but in fact they would be devastating for many, especially the most severely injured. This is yet another attempt by the health care industry to limit its liability exposure by proposing to take compensation judgments away from juries, and replacing the jury system with a statutory structure over which their political action committee money can have more control.”

Doroshow notes that Common Good was founded by Philip K. Howard, Vice-Chairman of the corporate law firm Covington and Burling, which is a principal architect of the so-called “tort reform” movement on behalf of Big Tobacco.

CJ&D points out the following problems with HITs, among others:

- HITs takes away the right to jury trial, despite consistent empirical studies showing juries to be competent, effective, fair decision makers able to handle complex cases, and supported by the public as the best arbiter of disputes.
- The decision-makers, who are not “judges,” might come directly from the health care industry, creating bias.
- While HITs claim to be based on no-fault models like workers’ compensation, they are not actually “no-fault” venues because patients must still prove negligence. In other

words, patients would still have a high burden to prove, but would have none of the protections the legal system provides. And patients will find it harder to get an attorney.

- Compensation for injuries under HITs will be determined by a “schedule” developed by political appointees (e.g., a certain amount for a lost eye or severed limb) instead of decided on a case-by-case basis by a jury. And, like under workers’ comp, benefits would inevitably be reduced in future years once insurers pressure politicians to save costs, which in the case of workers’ comp has left many permanently injured individuals barely able to survive.
- HITs provide a back-door way for Congress to limit “non-economic,” or “quality of life,” damages, causing most harm to the most severely injured patients.
- Medical errors would *increase* under HITs since the disclosure and deterrence functions of the civil justice system would be eroded.

For further information and the full report, go to <http://centerjd.org>.