Background
In 1999, the Institute of Medicine released a report entitled “To Err is Human” that found medical errors to be the eighth leading cause of death in the United States, with as many as 98,000 people dying each year as a result of medical errors. To reduce deaths and injuries due to medical errors, the health care system must identify and learn how to prevent such errors so that health care quality can be improved. At the same time, studies have shown the inconsistency of the medical liability system in determining negligence and compensating patients, and doctors are struggling to pay soaring medical liability premiums.

Solutions to the patient safety, litigation, and medical liability insurance problems, while challenging, are critical. In an attempt to address these issues, a number of hospital systems and private liability insurance companies around the country have adopted a policy of robust disclosure of medical errors with thorough analysis and intervention, apologies for such errors, and early compensation for patient injury. Overall, these policies have resulted in greater patient trust and satisfaction, more patients being compensated for injuries, fewer numbers of malpractice suits being filed, and significantly reduced administrative and legal defense costs for providers, insurers, and hospitals where such policies are in place. The MEDiC Act models the successes found through these programs and builds on the recently enacted Patient Safety and Quality Improvement Act.

Office of Patient Safety and Health Care Quality
The bill creates an Office of Patient Safety and Health Care Quality within HHS, which in collaboration with the Agency for Healthcare Research and Quality shall increase patient safety and health care quality across healthcare settings. The Director of the Office shall establish the National Patient Safety Database, conduct data analyses to inform policy and practice recommendations for providers, establish and administer the National Medical Error Disclosure and Compensation (MEDiC) Program, and support a number of studies related to MEDiC and the medical liability system.

National Patient Safety Database
The Director shall in consultation with other Patient Safety Organizations, establish a National Patient Safety Database to collect confidential patient safety data from National Medical Error Disclosure and Compensation (MEDiC) Program participants. The Director is tasked with adopting standard patient safety taxonomy, developing common and consistent definitions for patient safety terms, and establishing a standardized
electronic interface to allow for the streamlined, consistent entry of data to the Database in a form and manner that precludes identification of a provider, patient, or reporter of patient safety data.

**National Medical Error Disclosure and Compensation Program**

This section establishes the Medical Error Disclosure and Compensation (MEDiC) Program to:

- Improve the quality of health care by encouraging open communication between patients and health care providers;
- Reduce rates of preventable medical errors;
- Ensure patients have access to fair compensation for medical injury, negligence, or malpractice;
- Reduce the cost of medical liability insurance for doctors, hospitals, health systems, and other health care providers.

The National Medical Error Disclosure and Compensation (MEDiC) Program shall provide Federal support to doctors, hospitals, and health systems in disclosing medical errors and other patient safety events and offering fair compensation for injuries or harm. Once enrolled in the Program, participants shall submit a comprehensive safety plan and designate a patient safety officer to be responsible for meeting the goals and conditions of the Program.

Under the Program, any medical error, patient safety event, or notice of legal action related to the medical liability of a health care provider, shall be reported to the patient safety officer. If it is determined that a patient was injured or harmed as a result of medical error or the standard of care not being followed, the Program participant would be required to disclose the matter to the patient, and offer to enter into negotiations for fair compensation to the patient. The terms of negotiation for compensation assure confidentiality, protection for any apology made by a health care provider to the patient within the negotiation period, a patient’s right to seek legal counsel, and allow for the use of a neutral third party mediator to facilitate the negotiation. All negotiations must be completed within a six-month period, with the possibility for a one-time extension of three months.

As part of the conditions of participation in the Program, medical liability insurance companies and health care providers would be required to apply a percentage of the savings they reap from lower administrative and legal costs to the reduction of premiums for physicians and toward initiatives to improve patient safety and reduce medical error.

**National Medical Error Disclosure and Compensation (MEDiC) Grant Program**

This section allows the Director to develop and oversee grant programs to encourage participation in the program and support patient safety initiatives. Program participants would be eligible for funding to develop and implement communication training programs to help health care providers learn how to effectively disclose medical errors.
and other patient safety events to patients. Program participants may also receive funding to improve the use of information technology in order to facilitate the reporting, collection, and analysis of patient safety data.

Patient safety organizations and other entities would be eligible for grant funding to facilitate the tracking and analysis of local and regional patient safety trends, and the development and dissemination of training guidelines and recommendations for health care providers that focus on methods to reduce medical errors and improve patient safety and quality of care.

Of the total funds appropriated to carry out the National MEDiC program, there is a provision to hold in reserve twenty percent for the purpose of providing funding to Program participants if the total costs of the cases handled under the Program for the grant period exceed the total costs that would have been incurred if such cases had not been handled under the Program.

The National Patient Safety and Fair Compensation Accountability Study
This section requires the Director, directly or through contract, to analyze the patient safety data in the Database and from other sources to determine performance and systems standards, tools and best practices for doctors and other health care providers necessary to prevent medical errors, improve patient safety, and increase accountability within the healthcare system. Such analysis will consider the value of increasing the transparency of patient safety data to include the identity of health care providers and provide recommendations for improvements to the peer review process. A report with recommendations resulting from this analysis shall be submitted to Congress and be made available to States, State medical boards, and the public.

The Medical Liability Insurance Study
This section requires the Director, directly or through contract, to analyze the medical liability insurance market to determine historic and current legal costs related to medical liability, factors leading to increased legal costs related to medical liability, and which, if any, State medical liability insurance reforms have led to stabilization or reduction in medical liability premiums. Such an analysis shall distinguish between types of carriers. A report with recommendations resulting from this analysis shall be submitted to Congress and be made available to States, State insurance regulators, and the public.

Study to Reduce the Incidence of Lawsuits Not Related to Medical Error
This section requires the Director, directly or through contract, to analyze the patient safety data in the Database to examine those cases that were not successfully negotiated through the Program, or of which the parties chose not to participate in the Program and to determine the reasons, trends, and impact of such outcomes on Program participants and patients. A report with recommendations resulting from this analysis shall be submitted to Congress and be made available to States and the public.