

S 45

MCAP Act

Congress: 111 (2009–2011, Ended)

Chamber: Senate

Policy Area: Law

Introduced: Jan 6, 2009

Current Status: Read twice and referred to the Committee on Health, Education, Labor, and Pensions.

Latest Action: Read twice and referred to the Committee on Health, Education, Labor, and Pensions. (Jan 6, 2009)

Official Text: <https://www.congress.gov/bill/111th-congress/senate-bill/45>

Sponsor

Name: Sen. Ensign, John [R-NV]

Party: Republican • State: NV • Chamber: Senate

Cosponsors (13 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Burr, Richard [R-NC]	R · NC		Jan 6, 2009
Sen. Coburn, Tom [R-OK]	R · OK		Jan 6, 2009
Sen. Cornyn, John [R-TX]	R · TX		Jan 6, 2009
Sen. Gregg, Judd [R-NH]	R · NH		Jan 6, 2009
Sen. Inhofe, James M. [R-OK]	R · OK		Jan 6, 2009
Sen. McConnell, Mitch [R-KY]	R · KY		Jan 6, 2009
Sen. Vitter, David [R-LA]	R · LA		Jan 6, 2009
Sen. Voinovich, George V. [R-OH]	R · OH		Jan 6, 2009
Sen. Alexander, Lamar [R-TN]	R · TN		Jan 7, 2009
Sen. DeMint, Jim [R-SC]	R · SC		Jan 7, 2009
Sen. Thune, John [R-SD]	R · SD		Jan 7, 2009
Sen. Sessions, Jeff [R-AL]	R · AL		Jan 22, 2009
Sen. Grassley, Chuck [R-IA]	R · IA		Sep 10, 2009

Committee Activity

Committee	Chamber	Activity	Date
Health, Education, Labor, and Pensions Committee	Senate	Referred To	Jan 6, 2009

Subjects & Policy Tags

Policy Area:

Law

## Related Bills

Bill	Relationship	Last Action
111 S 2997	Related bill	<b>Feb 4, 2010:</b> Read twice and referred to the Committee on Finance.
111 S 1734	Related bill	<b>Sep 30, 2009:</b> Read twice and referred to the Committee on the Judiciary.

## Summary (as of Jan 6, 2009)

Medical Care Access Protection Act of 2009 or the MCAP Act - Sets forth provisions regulating lawsuits for health care liability claims related to the provision of health care services.

Sets a statute of limitations of three years after the date of manifestation of injury or one year after the claimant discovers the injury, with certain exceptions.

Requires a court to impose sanctions for the filing of frivolous lawsuits.

Limits noneconomic damages to \$250,000 from the provider or health care institution, but no more than \$500,000 from multiple health care institutions. Makes each party liable only for the amount of damages directly proportional to such party's percentage of responsibility.

Allows the court to restrict the payment of attorney contingency fees. Limits the fees to a decreasing percentage based on the increasing value of the amount awarded.

Prescribes qualifications for expert witnesses.

Requires the court to reduce damages received by the amount of collateral source benefits to which a claimant is entitled, unless the payor of such benefits has the right to reimbursement or subrogation under federal or state law.

Authorizes the award of punitive damages only where: (1) it is proven by clear and convincing evidence that a person acted with malicious intent to injure the claimant or deliberately failed to avoid unnecessary injury the claimant was substantially certain to suffer; and (2) compensatory damages are awarded. Limits punitive damages to the greater of two times the amount of economic damages or \$250,000.

Prohibits a health care provider from being named as a party in a product liability or class action lawsuit for prescribing or dispensing a Food and Drug Administration (FDA)-approved prescription drug, biological product, or medical device for an approved indication.

Provides for periodic payments of future damage awards.

## Actions Timeline

- **Jan 6, 2009:** Introduced in Senate
- **Jan 6, 2009:** Read twice and referred to the Committee on Health, Education, Labor, and Pensions.