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Letter: Calling out Congress' quiet plans

Robert A. Clifford is the founder and senior partner at Clifford Law Offices. His letter comes in response to an Associated Press article that ran in the March 9 edition, "Republicans push House health-care bill."

While most of the country is pondering the massive changes President Trump calls for regarding health care, immigration, environmental funding and public television, Congress is quietly moving legislation that significantly affects every American's basic right to a trial by jury.

Several bills have been introduced in the House and some have passed and are even working their way through the Senate. For example, the deceptively titled The Protecting Access to Care Act, H.R. 1215, would cap damages in medical-malpractice cases, a measure that has often been found unconstitutional under state constitutions, including three times in Illinois where it has been found to unconstitutionally deprive victims of malpractice of their right to a trial by jury.

Republicans in the House, though, are pushing to limit monetary awards in court in medical-malpractice cases to \$250,000 for noneconomic damages, including pain and suffering, regardless of the number of defendants. The caps would apply broadly to many different types of medical malpractice, including errors in surgery, side effects from unsafe drugs, abuse and neglect in nursing homes and even sexual assault by one's doctor. The bill

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goes on to eliminate joint liability for economic loss and even prohibits lawsuits altogether against certain medical providers and pharmaceutical companies.

Protecting patients? No — it protects the wrongdoers.

These bills are trying to institute what has been called "tort reform," measures that are the subject of heavy-handed lobbying by corporate and insurance interests who use the bogus argument of saving money on the backs of those who have been negligently injured or killed by health-care practitioners.

Studies have demonstrated that capping damages at an arbitrary \$250,000 will not reduce the cost of health care or lower malpractice insurance costs for doctors, in part because med-mal lawsuits account for but a fraction of the civil cases that are filed across the country.

Furthermore, juries are not allowed to be told of these limits on damage awards, so it is misleading to those who are selected to serve on a jury and take the time to consider the evidence only to have their decisions nullified to a lesser amount.

Another bill, the so-called Innocent Party Protection Act, H.R. 725, would shift some claims to the federal system from state courts, thereby not allowing the party who was

injured to have a say in choosing the proper venue in which to have her case heard. This measure has passed the House and is headed to the Senate.

The Fairness in Class Action Litigation Act, H.R. 985, also was passed by the House and permits class-action lawsuits to proceed only if every person in the class had "an injury of the same type and scope." Of course, this would disallow virtually all class-action lawsuits because no two people would ever be impacted exactly the same by the negligence of another.

One need to look no further to see the discrimination in this act than a currently pending class action filed by veterans who suffer from asbestos-related illnesses and injuries. Several veterans groups are fighting the bill.

All of these bills are being rushed through Congress with no hearings, no debate and no transparency. Republicans have wasted no time in their concerted efforts to dismantle the civil justice system and, indeed, deprive all Americans of access to justice.

And this is in just the first 100 days of Trump's presidency. There is a lot more on the horizon expected from a Republican-dominated Congress. The time has come for all Americans, not just those who have been the victims of medical malpractice, to start a grass-roots campaign writing their representatives in the House and Senate to vote against these brazen measures that attack their foundational rights. Before it is too late.