

# NEW MEXICO INJURY ATTORNEY BLOG

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## Hospital Survival: Essential Strategies

In my last article, I addressed the high medical error rate in U.S. hospitals. The numbers are staggering and completely undermine tort reform arguments, medical malpractice award caps, and all those fighting healthcare reform that invariably use the myth of frivolous medical malpractice lawsuits in their attacks on reform.

The medical community recognizes the high error rates in hospitals and has responded stating that it is taking step to reduce medical mistakes. The Joint Commission, which accredits hospitals, launched a program called "Speak Up" to encourage patients to protect themselves from medical error. At the same time, it was recognized that medical professionals do not always respond positively or listen to input from patients with doctors interrupting their patients on average after only 23 seconds of this essential input. The Joint Commission stated further, "One way that you can help us is by checking everything we do." Hum?

Thus, the medical community recognizes the problem and at least partly passes responsibility to the patient. Naturally, the medical community does not back down on its arguments for lower medical malpractice award caps. Nor does it recognize that the typical response in case of medical errors is a denial of liability and it is this denial that forces litigation and pushes the evil trial lawyers into action.

The tips on surviving a hospital stay are interesting, and lead one to wander about the veracity and the motivations of the Tort Reform arguments. You are encouraged to bring an advocate to speak up for you when you are unable to speak up for yourself. I guess this would be following almost any surgery.

This leads to the next nugget of wisdom in surviving your hospital stay, "Avoid Wrong Site Surgery." It is said that your surgeon, or you I suppose keeping in mind the propensity of doctors to ignore their patients mentioned above, should mark your surgery site. That is sound advice. You would hope that this would be a high priority in surgery, but apparently the patient is ultimately responsible for this detail.

The patient should also prepare a full "health profile" listing medical conditions, allergies, and medications. As a patient, it is further suggested that you should bring all medications with you to avoid misspelling the names, or

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misstating the dosage and usage directions. Again, this is a task most patients would assume the medical staff would address. And realistically, shouldn't a patient be entitled to this expectation?

I will address just one more hospital survival tip set forth in the USA Today article. A patient should check all medications before accepting them from the medical professional dispensing the drug. In addition, the patient should make sure the medical professional dispensing the medication knows who you are insuring that they read your identification wristband. I guess a necessary follow up suggestion would be, "Don't fall asleep in the hospital."

These survival tips are more frightening than helpful. In fact, many patients are simply not able to perform these duties. Even educated and motivated patients would have trouble with the complete medical profile. The very suggestion that a patient should be responsible for marking a surgical site completely undercuts all legitimacy of tort reform arguments, medical malpractice caps and the myth of frivolous medical malpractice lawsuits. Will there come a day when the patient is then held responsible for incorrectly marking the surgical location?

What is the motivation of the Tort Reform movement? It clearly is not the protection of the public. The same question and conclusions arise when you raise the motivations of those fighting against healthcare reform. Draw your own conclusions. And eat your vegetables.

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