



“Tort Reform” Is a Desperate Distraction From Health Care Debate

Written On November 9, 2009 By [Bob Kraft](#)

This article was written for the [Huffington Post](#) by Anthony Tarricone, president of the American Association for Justice. Here are excerpts:

Those opposed to real health care reform are flailing to come up with real, alternative solutions to our current crisis. With all the talk of death panels, government takeovers, and rationing of care, now tort reform has been thrown into the mix.

Yet it will do practically nothing to lower health care costs, and certainly will not fix our broken health care system. However, it will most definitely hurt patients injured through no fault of their own. Seemingly, the effects of legislation on real people have somehow evaporated from the discussion.

To break through all the hyperbole, lies, and distortions, the American Association for Justice today released a [new report](#), “Five Myths About Medical Negligence.” The next time a cable news pundit or opponent of health care reform starts talking about tort law changes, chances are this manual will rebut their claims.

As the health care debate moves forward, here are the key myths and facts:

Myth #1: There are too many “frivolous” malpractice lawsuits.

Fact: There’s an epidemic of medical negligence, not lawsuits. Only one in eight people injured by medical negligence ever file suit. Civil filings have declined eight percent over the last decade, and are

less than one percent of the whole civil docket. A 2006 Harvard study found that 97 percent of claims were meritorious, stating, “portraits of a malpractice system that is stricken with frivolous litigation are overblown.”

Myth #2: Malpractice claims drive up health care costs.

Fact: According to the National Association of Insurance Commissioners, the total spent defending claims and compensating victims of medical negligence was just 0.3% of health care costs, and the Congressional Budget Office and Government Accountability Office have made similar findings.

Myth #3: Doctors are fleeing.

Fact: Then where are they going? According to the American Medical Association’s own data, the number of practicing physicians in the United States has been growing steadily for decades. Not only are there more doctors, but the number of doctors is increasing faster than population growth. Despite the cries of physicians fleeing multiple states, the number of physicians increased in every state, and only four states saw growth slower than population growth; these four states all have medical malpractice caps.

Myth #4: Malpractice claims drive up doctors’ premiums.

Fact: Empirical research has found that there is little correlation between malpractice payouts and malpractice premiums paid by doctors. A study of the leading medical malpractice insurance companies’ financial statements by former Missouri Insurance Commissioner Jay Angoff found that these insurers artificially raised doctors’ premiums and misled the public about the nature of medical negligence claims. A [previous AAJ report](#) on malpractice insurers found they had earnings higher than 99% of Fortune 500 companies.

Myth #5: Tort reform will lower insurance rates.

Fact: Tort reforms are passed under the guise that they will lower physicians’ liability premiums. This does not happen. While insurers do pay out less money when damages awards are capped, they do not pass the savings along to doctors by lowering premiums. Even the most ardent tort reformers have been caught stating that tort reform will have no effect on insurance rates.

Over 98,000 people die every year from preventable medical errors. That's like two 737s crashing every day for a whole year. Instead of focusing on tort law changes that won't fix health care, let's make sure people aren't injured in the first place. Not only will that lower costs, but most importantly, will improve health care for everyone.

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