



Tort Reform: A Bad Bargain That Won't Fix Health Care

Written On September 25, 2009 By [Bob Kraft](#)

In an excellent blog post at [The Huffington Post](#), AAJ president Anthony Tarricone makes the case that tort reform is bad for Americans and will not solve the health care dilemma. The entire article is well-worth reading, but here are the opening paragraphs:

On Friday, [the Associated Press reported](#) that a southern Illinois woman died after catching fire on the operating table during surgery. This woman unfortunately joined the least discussed, but most far-reaching statistic in health care: according to the Institute of Medicine, 98,000 people die annually from preventable medical errors.

To put this into perspective, 98,000 deaths is like two 737s crashing every day for a whole year. If this were the case, would lawmakers consider giving the airlines immunity, or make air travel safer instead?

As part of a "grand bargain" to create a bipartisan health care bill, some have said tort reform should be included. For most people, the term "tort reform" is empty and meaningless. But here's what it means: taking away the legal rights of patients, injured through no fault of their own, and preventing them from obtaining legal recourse. And it isn't fact-driven or grounded in reality; rather, it's just part of the Washington sideshow to distract from what really plagues our country's health care system.

Look at what the actual data says: 98,000 people dead every year from preventable medical errors, at a cost of \$29 billion. Countless more are seriously injured with astronomical costs. The Congressional Budget Office and Government Accountability Office have looked at tort reform multiple times, and said it

will save practically no money. They also found no evidence of so-called “defensive medicine,” finding that doctors run more tests because of the fee-for-service structure, or because of the benefits extra tests have on patient care.

Additionally, a 2006 study from Harvard found that 97% of cases were meritorious, totally debunking the idea that frivolous lawsuits plague our courts. And while 46 states have enacted some kind of tort reform, health care costs have continued to skyrocket, while injured patients or their families often can’t seek justice.

It’s no coincidence that the same people who have hijacked our health care system — the insurance companies — are the same folks who want tort reform. Insurers charge exorbitant amounts for malpractice coverage, raking in billions of dollars off the backs of doctors. Then, the insurance companies lobby for tort reform, and promise to pass the savings onto physicians and consumers. Of course, the savings never materialize, while injured patients are left holding the bag. We’ve been fooled once before, and shouldn’t let it happen again.