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Malpractice lawsuits are down while injuries are up

While evidence continues to mount of the **high cost of preventable medical errors**, and the failure of safety efforts to put much of a dent in the rising tide of injuries from health care, here's a curious new statistic: Malpractice lawsuit payments are at their lowest level in 20 years.

That figure comes from Public Citizen, which every year scours the official National Practitioner Data Bank for data on total payments. According to Public Citizen, the cumulative total of payouts in 2010 across the United States was its lowest since the data bank started in 1990, adjusted for inflation.

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Public Citizen says the numbers give the lie to efforts by some Congressmen to blame rising health care costs on malpractice victims who sue for accountability. A bill which has advanced in the House of Representatives, the **Help Efficient, Accessible, Low-cost, Timely Healthcare Act of 2011 (H.R. 5)**, would put an artificial "cap" on malpractice lawsuit damages (other than tangible items like lost wages and medical bills) of \$250,000 even for the most catastrophic injuries and death. The cap would also apply to cases against drug and medical device manufacturers for defective products.

The decline in dollar payouts to malpractice victims may reflect the efforts of lawmakers in many states to make malpractice lawsuits more difficult and expensive to bring by putting lids on damages, shortening the time for filing a lawsuit, and other tactics. That legislative strategy is the same one behind the H.R. 5 bill in Congress, which would make "tort reform" uniform and applicable in every state.

"There is a crisis in medical malpractice, not lawsuits," said Taylor Lincoln, research director for Public Citizen's Congress Watch division and the author of the new study. "Trying to stop people from being compensated for catastrophic injuries is not the answer. We should instead concentrate on making hospitals safer and disciplining doctors who repeatedly commit malpractice."

The Public Citizen analysis also found that:

- Between 2000 and 2010, health care spending rose 90 percent while medical malpractice payments fell 11.9 percent;
- Malpractice payments in 2010 amounted to only 0.13 percent of 1 percent of national health costs, the lowest percentage on record; and
- Total costs for malpractice litigation fell in 2009 to just 0.40 of 1 percent of health costs, the lowest level since the databank's inception.

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Meantime, medical journals continue to report that preventable injuries happen commonly in hospitals and other health care facilities. A [recent study of North Carolina hospitals](#), published in the prestigious New England Journal of Medicine, found that one in four hospital admissions included harm to the patient due to medical care, and two out of three of those harms were judged to be preventable.

The researchers wrote: "[W]e found that harms remain common, with little evidence of widespread improvement."

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