



Posted On: **January 6, 2011** by **Patrick A. Malone**

The "Defensive Medicine" Fraud

The idea that doctors order unnecessary tests to avoid being sued has enough surface plausibility that people nod "of course" as if it's undeniable truth. The "fraud" of "defensive medicine" is two-fold: It doesn't really happen, at least not that anyone has ever proven, and even if it did happen, it would mean that doctors were committing fraud -- insurance fraud by ordering tests to protect their own rear ends and not to benefit the patient.

This is back in the news because the new Republican leadership of the House of Representatives wants to hold hearings about how cutting back on patients' rights to sue for redress when they've suffered preventable injuries from medical malpractice will allegedly improve the budget deficit.

Patrick A. Malone
Patrick Malone & Associates, P.C.
1331 H Street N.W.
Suite 902
Washington, DC 20005

pmalone@patrickmalonelaw.com
www.patrickmalonelaw.com
202-742-1500
202-742-1515 (fax)

Joanne Doroshov of the Center for Justice and Democracy has a new column in the Huffington Post that takes on this issue.

An excerpt:

While anonymous doctor surveys provide the principal foundation for the argument that widespread "defensive medicine" exists, credible organizations who have looked into the issue have had a very hard time identifying pervasive "defensive medicine," especially when managed care companies are paying the bill. For example, the Congressional Budget Office found tiny health care savings - "0.3 percent from slightly less utilization of health care services" - if severe tort reform were passed nationally. According to the CBO, if there is any problem at all, it's with Medicare, specifically its emphasis on "fee-for-service" spending, whereas private managed care "limit[s] the use of services that have marginal or no benefit to patients (some of which might otherwise be provided as 'defensive medicine')."

But there is another issue. In these anonymous surveys, doctors never actually identify specific tests or procedures they have conducted for the primary purpose of avoiding a lawsuit, let alone a service they would no longer perform if severe "tort reform" were enacted.

Read more [here](#).

Patrick A. Malone
Patrick Malone & Associates, P.C.
1331 H Street N.W.
Suite 902
Washington, DC 20005

pmalone@patrickmalonelaw.com
www.patrickmalonelaw.com
202-742-1500
202-742-1515 (fax)

People interested in learning more about our firm's legal services, including [medical malpractice in Washington, D.C., Maryland and Virginia](#), may ask questions or send us information about a particular case by phone or email. There is no charge for contacting us regarding your inquiry. A [malpractice attorney](#) will respond within 24 hours.

All contents copyrighted 2010 [Patrick Malone & Associates](#) except where copyright held by others. Reproduction in any form prohibited except where expressly granted.

Patrick A. Malone
Patrick Malone & Associates, P.C.
1331 H Street N.W.
Suite 902
Washington, DC 20005

pmalone@patrickmalonelaw.com
www.patrickmalonelaw.com
202-742-1500
202-742-1515 (fax)

Copyright 2010 Patrick Malone