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Medical Malpractice Reform Harms Patients and the Taxpaying Public

Medical malpractice reform is all the rage in politics these days. President Obama even seems to have jumped on the bandwagon. Many states are lining up to pass their own versions of medical malpractice caps under the guise of protecting doctors and patients.

The reality is that medical malpractice lawsuits have been on the decline for many years. In addition, those that are taken to trial have a very low success rate. There simply is no problem with runaway medical malpractice jury verdicts in the U.S. The threat of frivolous medical malpractice lawsuits is pure myth.

On the other hand, there is a very real problem with medical malpractice. It is estimated that up to 98,000 patients die each year from medical malpractice. That is almost twice the number of U.S. soldier deaths during the Vietnam War. There are countless others who survive medical malpractice with horrible and permanent injuries.

One such instance was reported by the Texas Tribune where Emergency Room physicians and staff failed to treat a woman for her very well documented and extremely serious vascular clotting problem. The woman was sent home with a diagnosis of bilateral leg pain. Due to the failure to treat the formerly diagnosed problems, the woman lost both her legs.

In addition to very low caps on medical malpractice claims, Texas has seen fit to give immunity against medical malpractice claims to Emergency Room doctors except in cases of "willful and wanton" behavior. In other words, a patient must basically prove intentional conduct. This is an impossible standard making it near impossible now for patients to recover for what amounts to gross negligence on the part of emergency room doctors.

The potential problem is made most evident in a horribly tragic case reported last week by Fox 40 in Sacramento. In that case, the parents of a two year old girl took her to a Sacramento Emergency Room for treatment for a persistent fever, skin discoloration and weakness. The parents waited 5 hours in the Emergency Room begging and pleading with doctors to see their little girl as her condition deteriorated before their eyes. Their pleas were ignored. As a result, streptococcus A bacteria ravaged her body necessitating the amputation of both feet, her left hand and part of

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her right hand. Streptococcus A is both common and easily treatable. This tragedy could have been avoided with even slight attention to the little girl or her parents.

Anyone who has ever been to an Emergency Room will understand the implications of providing immunity to Emergency Room doctors. There is the common cry that medical malpractice causes doctors to undertake unnecessary and expensive testing to protect against lawsuits. Both these cases illustrate the opposite. In each case, a little routine testing and attention would have saved these patients from amputations. Now states, Texas in particular, are moving toward a model where there is no pressure at all on doctors to behave professionally and competently leaving all of us at risk each time we seek medical attention.

Voters should keep this reality in mind as cynical and opportunistic politicians seek to gain advantage by touting medical malpractice reform. Keep in mind the two year old girl who now faces a life as a quadruple amputee. Perhaps this is not enough so consider yourself or your family in need of urgent medical services at the ER and whether you believe it is prudent to have a system where doctors and hospitals are not held accountable for their actions.

Then ask yourself who the caps and immunity are meant to serve? It is certainly not the taxpaying public who will ultimately bear the costs of caring for those injured by medical malpractice through Medicare, Medicaid, Social Security Disability and other programs while those truly responsible get a pass.

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