

Louisiana Advocates

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Louisiana Association for Justice

AAJ white paper debunks malpractice myths

In early November the American Association for Justice released another of its reports on medical negligence. That report, "Five Myths About Medical Negligence," examines the errors and faults behind the most commonly used talking points of health care reform opponents.

According to AAJ, these are five commonly held misconceptions about medical malpractice:

Myth No. 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 files suit. Civil filings have declined 8 percent over the last decade and are less than 1 percent of the whole civil docket.

A 2006 Harvard study found that 97 percent of claims were meritorious. That report stated, "Portraits of a malpractice system that is stricken with frivolous litigation are overblown."

Myth No. 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 percent of health care costs.

The Congressional Budget Office and Government Accountability Office have made similar findings.

Myth No. 3: Doctors are fleeing.

Fact: 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 also increasing faster than population growth.

Despite the cries that physicians are fleeing from multiple states, the number of physicians increased in every state, and only four states saw growth slower than population growth. Those four states all have medical malpractice caps.

Myth No. 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 percent of Fortune 500 companies.

Myth No. 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.

"All the facts and evidence show that tort law changes will do practically nothing to lower costs or cover the uninsured," AAJ President Anthony Tarricone said.

"It's no wonder the tort reformers, insurance lobby and other corporate front groups have to gin up lies and phony stats, since no legitimate data or research supports their claims. Our focus should be on reducing the 98,000 deaths by medical error that occur every year, not limiting patients' legal rights."

As part of its ongoing series on the topic, AAJ earlier released "Medical Negligence: A Primer for the Nation's Health Care Debate," "The Truth About 'Defensive Medicine,'" and "The Insurance Hoax: How Doctors and Patients Pay for the Huge Earnings of Medical Malpractice Insurers."

These three reports can be found at www.justice.org/medicalnegligence.

"Five Myths About Medical Negligence" can be found directly at www.justice.org/clips/Five%20Myths%20About%20Medical%20Negligence.pdf.