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MYTHBUSTER!

10 Things You Should Know About ... MEDICAL MALPRACTICE

1. Insurance companies are paying victims of medical negligence on average approximately \$30,000. Average payouts have stayed virtually flat for the last decade. ¹
2. Medical malpractice costs, as a percentage of national health care expenditures, are at an all time low, 0.55 percent. ²
3. According to the National Academy of Sciences, up to 98,000 people are killed each year by medical errors in hospitals -- far more than die from car accidents, breast cancer or AIDS. ³
4. Total national costs (lost income, lost household production, disability and health care costs) of negligence in hospitals are estimated to be between \$17 billion and \$29 billion each year. ⁴
5. Eight times as many patients are injured by medical malpractice as ever file a claim; 16 times as many suffer injuries as receive any compensation. ⁵
6. Injured medical malpractice patients win before juries in only 23 percent of cases; in 1992, the rate was 7.5 percent higher at 30.5 percent. ⁶
7. Only 1.1 percent of medical malpractice plaintiffs who prevail at trial are awarded punitive damages. ⁷
8. According to studies in several states, there is no correlation between where physicians decide to practice and state liability laws or insurance rates. ⁸
9. Tort law limits do not lower insurance rates; states with little or no tort law restrictions have experienced approximately the same changes in insurance rates as those states that have enacted severe restrictions on victims' rights. ⁹
10. Numerous hospital and medical procedures have been made safer as a result of lawsuits, including anesthesia procedures, catheter placements, drug prescriptions, hospital staffing levels, infection control, nursing home care and trauma care. ¹⁰

NOTES

¹ Memo from Joanne Doroshow to Interested Persons with attached spreadsheet prepared by J. Robert Hunter, Director of Insurance, Consumer Federation of America, November 14, 2001.

² *Ibid.*

³ Kohn, Corrigan, Donaldson, Eds., *To Err is Human; Building a Safer Health System*, Institute of Medicine, National Academy Press: Washington, DC, 1999.

⁴ *Ibid.*

⁵ Harvard Medical Practice Study, *Patients, Doctors and Lawyers: Medical Injury, Malpractice Litigation, and Patient Compensation in New York*, 1990.

⁶ "Tort Trials and Verdicts in Large Counties, 1996," U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, NCJ-179769 (August 2000), pp. 4,9.

⁷ *Ibid.*, p. 7.

⁸ "Doctors not leaving Pittsburgh despite costly insurance," *Associated Press*, November 12, 2001; Goldstein, Josh, "Recent Census of Doctors Show No Flight from Pennsylvania," *Philadelphia Inquirer*, October 2, 2001, Leonard, Martha, "State has seen sharp increase in number of doctors," *Sunday Gazette Mail*, February 25, 2001; Kinney and Gronfein, "Indiana's Malpractice System: No-Fault by Accident," 54 *Law & Contemp. Probs.* 169, 188 (1991), cited in Galanter, Marc, "Real World Torts," 55 *Maryland L. Rev.* 1093, 1152-1153 (1996); . Kinney, "Malpractice Reform in the 1990s, Past Disappointment, Future Success?" 20 *J. Health Pol. Pol'y & L.* 99, 120 (1996), cited in Galanter, Marc, "Real World Torts," 55 *Maryland L. Rev.* 1093, 1152 (1996).

⁹ J. Robert Hunter and Joanne Doroshow, *Premium Deceit: The Failure of "Tort Reform" to Cut Insurance Prices*, Center for Justice & Democracy (1999).

¹⁰ Meghan Mulligan and Emily Gottlieb, *Lifesavers: CJ&D's Guide to Lawsuits that Protect Us All*, Center for Justice & Democracy (2001).