

## **If Only The Public Knew**

Who said that, per person, the United States has the highest healthcare costs among industrialized nations, with one of the lowest life expectancies? Who said that the number of preventable medical deaths in the United States is equal to an Asian Tsunami every two years, is greater than deaths due to smoking-related lung cancer, is greater than the U.S. deaths in Vietnam, and if applied to airplane “enplanements,” would be 847,262? Who said that the leading causes of death in America are heart disease, all cancers, lung cancer, and then preventable errors in hospitals? Who said that of all those people injured by preventable medical errors in the medical system, less than 1 in 15 ever consult an attorney, and only about 2-1/2 percent ever file a lawsuit? Who said that 55 percent of people in this country are dissatisfied with healthcare quality in the U.S.? And is that person for or against caps on damages in medical malpractice cases?

According to testimony before the Healthcare Excellence and Accountability Response Team (HEART) given by **Robert Crawford, M.D.**, School of Public Health, University of North Carolina, Chapel Hill, **all those statements are true, and he is against caps as well.**

What is going on here?

As we have been saying for well over six years, if the public wants to know what is going on in the healthcare system, it is

necessary to listen to the doctors and the Ph.D. scientists at the major medical schools and healthcare institutions around this country. The truth is being told, but unfortunately **not one reporter** covered the testimony held at the University of Pennsylvania, School of Medicine in Philadelphia on St. Patrick's Day, March 17, 2005.

All the doctors who spoke on the subject of healthcare standards were uniform that there is an unacceptable number of preventable healthcare errors in this country and that very few people seek or receive compensation for that neglect.

Frustration has led many physicians to suggest no-fault or so-called "enterprise theory coverage" in order to help those who are injured by the medical healthcare system. The problem with this, as everyone knows who has studied this subject, is that the number of errors, mishaps and malpractices are so great that the system would be bankrupted if more than 2-1/2 percent of the people did seek compensation.

This is why so many of us concerned with healthcare have said that the "Golden Ring" is patient safety and reducing medical errors.

Finally this important subject has moved into the forefront of the debate around the country.

Some brilliant and thoughtful doctors spoke at the University of Pennsylvania conference. Many quality control ideas, some borrowed from industry, are beginning to percolate within the healthcare community. Unfortunately, people who

run hospitals, pharmaceutical companies and medical groups do not yet understand the connection between quality healthcare and lowering their own medical malpractice insurance premiums. The problem with this disconnect is the profit motive.

Insurance companies do not have a motive to lower medical malpractice insurance premiums, regardless of how low the medical errors are and regardless of how few lawsuits there are, because they are in it for the money. There is nothing wrong with insurance companies trying to make money; the problem is that when interest rates go down and investments drop, insurance companies cannot be in the position of making it up on the backs of doctors, hospitals, and the public. That is what has happened during the current economic cycle, which started in 1999.

One of the debates in the healthcare community which attracts attention from time to time is the concept of uniform practice standards. Some doctors have suggested that if a doctor meets uniform practice standards, he or she should not be liable for malpractice regardless of what went wrong. Those same doctors would say that if the practice standard was violated, there should be automatic liability.

That is a wonderful idea, except that it does not take account of changing medical developments and the reality that each patient is different. More importantly, the insightful concept does not take account of the fact that most doctors do not follow practice standards. One of the most astounding pieces of information comes from The New England Journal of Medicine in a study that virtually all doctors agree is legitimate.

“Among different medical functions, adherence to the processes involved in care range from 52.2 percent for screening to 58.5 percent for follow-up care.” The study made a big splash in the medical community, but unfortunately was not heard by the public. In an editorial, Earl P. Steinberg, M.D., M.P.P., stated that adults receive only 55 percent of recommended care according to 439 process-of-care measures.

Alan Rabinowitz, Executive Director of the Pennsylvania Patient Safety Authority, also spoke at the public hearing. He said that since **voluntary** reporting began by hospitals in June of 2004, over 100,000 incidents and serious events have been reported. What is significant about this number, aside from the staggering amount, is that reporting is voluntary and does include private doctor offices. About 5 percent of those reports are classified as “serious events,” and the number is probably higher since hospitals get to choose their own “harm score” in the reporting taxonomy. This means that conservatively in about eight months, there have been 5,000 serious events. The number of lawsuits in that same period of time filed for medical malpractice in the Commonwealth of Pennsylvania is about 2-1/2 percent of the number of serious events reported, which is very much in line with the national standard.

Of those 2-1/2 percent of patients who do file lawsuits, only 20-25 percent ever succeed because of the public hostility towards lawsuits and the untruthful propaganda spread by the enemies of the legal system.

**In truth, far less than .50 percent of the people who are victims of serious preventable medical errors receive compensation.**

If physician proposals to impose practice standards were adopted, the number of people who would be entitled to receive compensation for preventable medical errors would jump from perhaps 50 or 60 in the eight months (and that is a very liberal number) up to approximately 2,500. Those 2,500 deserve compensation, but the system does not have the money to pay them because of the amount of money that is drained off by the pharmaceutical industry, insurance company profits, advertising expenses of hospitals and medical companies, and a medical system that places profit ahead of patients.

The doctors at the conference said that they were against caps because they feel that a “carrot and whip” system is needed. Not every doctor agrees with that, of course, but their observations are also supported by a study to be released in May of 2005 entitled “Unintended Consequences of Medical Malpractice Caps.” The caps on non-economic damages tend to drive higher payouts on economic damages, and enrich no one other than insurance companies who do not reduce rates when caps are imposed.

Bear in mind that all of the information in this article comes not from trial lawyers, but from doctors and Ph.D. scientists who have been studying the medical healthcare field.

I am proud to be included in the dialogue and discussion being held by the medical community. I intend to remain an

active member of the Patient Safety Authority, and to attend conferences and meetings given by legitimate and serious members of the medical community who want to debate and understand the medical malpractice compensation system and make it work more fairly for sick patients.

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