

Going Beyond the 'Malpractice Myths'

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Why is it that when a doctor weighs in on the medical malpractice crisis ["Dispelling Malpractice Myths," op-ed, Nov. 14], the solution never includes giving the public access to the National Practitioner Data Bank, with its record of malpractice claims payments and out-of-court settlements made on behalf of individual doctors?

By blocking public access to these records, physicians perpetuate the malpractice crisis. The only way a patient can see a physician's complete work history now is through an attorney as part of a malpractice lawsuit.

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Doctors should stop hiding behind their wall of secrecy. It is an unnecessary secrecy that hurts them and those they have pledged not to harm.

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William R. Brody is wrong about the "myths" surrounding medical malpractice. I represent patients in malpractice cases, but don't take my word for it. Nonpartisan groups such as the National Center for State Courts, the Bureau of Justice Statistics and the Government Accountability Office (GAO) say:

- Malpractice payouts and lawsuits have declined steadily in the past decade, once inflation and population growth are taken into account. No explosive growth has taken place.

- Malpractice lawsuits have not caused a shortage of physicians. That isolated rural pockets lack access to health care has more to do with geography than with the courts, according to the GAO.
- Three House committee chairmen asked the GAO last year to document the costs of "defensive medicine" caused by fear of malpractice suits. The GAO could find no evidence that this occurs.
- The legal system has full protection for physicians who engage in peer review to improve care. Their deliberations are confidential and are immune from lawsuit in most jurisdictions.
- Juries do not award bundles of cash out of misguided sympathy. Most lawsuits are won because of rigorous proof of inexcusable departures from standards of medical practice. Trial judges and appeals courts must scrutinize jury verdicts to be sure that they are reasonable in outcome and amount.
- Doctors are the victims of the reckless pricing practices of their own insurance companies, which discounted premiums steeply during the 1990s. Big increases in premiums follow downturns in the financial markets.

More than 100,000 patients are hurt or killed each year by preventable mistakes in hospitals and clinics. The medical care system could do a lot about this by implementing basic safety controls that have long existed in other high-risk enterprises, such as commercial air travel (where victims' rights to legal redress are not restricted). Blaming the messenger only hurts patients and delays addressing the real issues.