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America's medical malpractice crisis **THE REAL STORY**

Medical malpractice premiums are skyrocketing, and doctors are abandoning their practices and communities throughout the nation. But the insurance industry falsely says it's because of "frivolous" lawsuits and "out-of-control" juries, and medical-care providers are only too happy to agree.

The real problem with medical malpractice is that it occurs too often. It's the eighth leading cause of death in America—killing more people than AIDS, breast cancer, or automobile accidents. Reports show that up to 98,000 patients die each year in U.S. hospitals—an average of 268 deaths per day—and many more are injured as a result of preventable medical errors. Preventable medical errors range anywhere from surgeons operating on the wrong side of the brain to nurses administering lethal doses of medications.

Most patients and their survivors never learn they were victimized by medical negligence. Peer review and a conspiracy of silence protect many bad and negligent doctors. There is no reason to presume the statistics have improved since a 1990 study indicated that only one of eight instances of malpractice resulted in a claim. According to another study, plaintiffs win only 26 percent of all suits that are filed and tried.

Although we want to trust doctors, we need to be wary. A West Virginia study found that just 40 doctors were responsible for more than a quarter of the 2,300 cases of medical malpractice reported to the West Virginia Board of Medicine between 1993 and 2001. A recent analysis of medical negligence records in Kentucky showed that from 1992 through 2001, only 16 percent of the state's doctors were responsible for 100 percent of the medical malpractice.

So, shouldn't the medical profession and its insurers weed out the repeat offenders? No. According to a recent study, fewer than 30 percent of doctors who had action taken against them for "substandard care, incompetence, or negligence" and for misprescribing or overprescribing drugs had to stop practicing—even temporarily.

When major medical malpractice insurer St. Paul Insurance Co. recently announced that it was getting out of the business, it blamed malpractice verdicts. The company conveniently failed to mention that its economic hardship was actually caused by poor investments—including the \$108 million it lost in the Enron collapse.

The negligence of bad doctors and the poor business decisions of selfish insurance companies are certainly not the fault of the patients whom they mistreat. Yet, as much as these doctors and insurers try to blame lawyers and others for their current troubles, it is patients suffering continuing malpractice who endure the worst punishment.



WHAT YOU CAN DO

Write or call your members of Congress to vote against H.R. 4600 by Reps. Greenwood (R-PA) and Murtha (R-PA). To identify your U.S. Representative and Senators, get information about the bill, or to personalize and send a sample letter, see the Action Network at: <http://atla.org/action.ht>. If you know who your members of Congress are, you can call them at **202-224-3121**.

Serving you and your family in times of need.

Client service

At our firm, customer service isn't just a catchword. We incorporate a sense of respect and individual consideration into all the services we provide to each client. Because you're very special to us, we want to give you the highest level of personal attention we can.

Here's what you can expect from us:

- ◆ A warm greeting when you arrive.
- ◆ Introductions to the professional and support staff who will assist you.
- ◆ A personal and pleasant working experience and relationship.
- ◆ Personal meeting time at each visit.
- ◆ No telephone interruptions when you are in counsel with us.
- ◆ Attentive listening and lots of questions from us.
- ◆ A shared sense of urgency about your issue.
- ◆ Promptly returned phone calls and timely answers to questions you may have.
- ◆ Frequent contact to stay in touch and report developments.
- ◆ Our standing request that you tell us if we can improve our service in any way.

Employee rights

As a result of many years of leadership and hard work by reformers, government officials, labor leaders, and enlightened employers, American workers enjoy many rights envied by laborers all over the world.

At many businesses, the human resources office gives each employee a handbook that spells out in detail each employee's right to equal opportunity in hiring and a clear policy and process for termination. Policies direct fundamentals such as compensation, employee benefits, vacation, and retirement. There are also clear guidelines covering personal safety, illness and injury, and freedom from discrimination and harassment. More than ever before, employees have a better understanding of their rights to privacy regarding treatment by employers and handling of personnel records.

When employers disregard rights

While at his workplace, an African-American worker was repeatedly subjected to coworkers' jokes and comments that contained racial slurs. On occasion, his immediate supervisor laughed at many of the jokes. When he sued his employer under the Civil Rights Act, a trial court awarded him both compensatory and punitive damages because the employer failed to stop racial harassment in the workplace.



Oral cancer screenings

Early detection of oral cancer, the seventh most common form of cancer, is very important. That's why your dentist should check for signs of it at each regularly scheduled visit.

At greatest risk are those who smoke or use chewing tobacco—particularly if they also consume alcohol.

Commonly affected sites are lips, tongue, floor of the mouth, soft palate, and cheeks. Symptoms dentists look for include sores or white patches that are slow to heal...persistent sore throat...changes in hearing, smell, taste, or voice...and weakness, tenderness, or pain in the face or jaw.

An oral examination takes only a few minutes during a dental visit, but it's very important to dental and overall health.

Dental and medical negligence

After a woman died of oral cancer, her husband, on behalf of her estate, sued her HMO, alleging it was liable for an otolaryngologist's failure to diagnose her oral cancer in a timely manner. The HMO and an oral surgeon settled when the estate's attorney successfully asserted that the surgeon should have taken a biopsy and advised the patient that her symptoms might indicate oral cancer.



Why people trip and fall

Although some people fall because they are not watching where they are going or because they feel faint, many falls involve safety hazards over which they have no realistic control.

- **Premises defects.** Store employees may obstruct an aisle floor with stacked boxes or display merchandise. Tree roots may lift a sidewalk section. Workmen may have improperly installed shower safety bars.
- **Dangerous conditions.** Restaurants may not clean up slippery food on the floor in front of a salad bar. A machine shop's floor mats may pop up when they overlap.
- **Failure to maintain a safe property.** A stairway may have loose handrails. Someone's swimming pool may have inadequate fencing or other safeguards.

Anatomy of a trip and fall

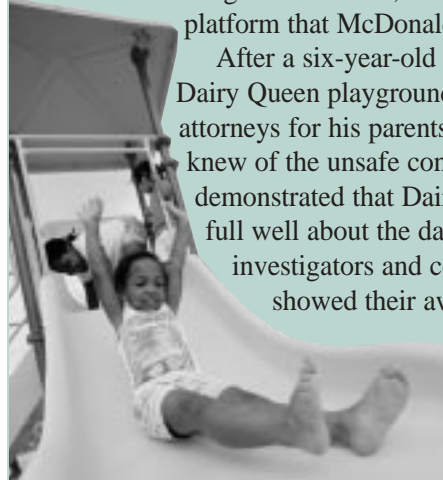
When a 54-year-old woman tripped at a restaurant, she struck her head and suffered a detached retina, eventually losing vision in one eye. When she brought suit, her attorney, with the help of an expert engineering witness, reported that water leakage two years earlier had loosened floor tiles and that many customers and staff had stumbled there. In addition, the expert said the missing tiles violated local building codes and that \$10 was all that was needed to make full repairs. The defendant claimed that posting a "Watch Your Step" sign and placing a mat over the uneven floor were adequate safety measures. The jury thought otherwise and concluded that the restaurant was 90 percent at fault for the injury.

CONSIDER SEEKING LEGAL COUNSEL IF YOU SUFFER A TRIP AND FALL INJURY.

RESTAURANT PLAYGROUNDS

To children, fast-food restaurants are what dreams are made of. There they can find fabulous food, cool toy giveaways, and great playgrounds. However, parents need to closely monitor their kids as they climb, slide, swing, and have fun.

Here's why. In a settlement with the Consumer Product Safety Commission, fast-food marketer McDonald's agreed to pay the government \$4 million for failing to report more than 400 injuries to children at its playgrounds nationwide. Most accidents occurred on "The Big Mac Climber," a metal, hamburger-shaped platform that McDonald's has now removed.



After a six-year-old fell from a slide at a Texas Dairy Queen playground and fractured his skull, attorneys for his parents sued, claiming the company knew of the unsafe conditions. Their research demonstrated that Dairy Queen executives knew full well about the danger but had lied to investigators and concealed documents that showed their awareness. The trial judge found Dairy Queen in contempt of court and ordered the company to pay more than \$100,000 in sanctions.

So how can parents protect their children at restaurant playgrounds?

- An adult should supervise all play and assist in emergencies.
- Encourage children to play on equipment designed for their ages.
- Safety-inspect ground surfaces for hardness or hazards such as broken glass or other sharp objects.
- Check ladders, steps, platforms, handrails, ropes, barriers, and swings, slides, seesaws, and merry-go-rounds, looking for sharp edges, loose connections, missing parts, and other dangers.
- Report and repair all hazards.

Protecting children from burns

More than 150,000 children are burn victims annually. According to the National Burn Victim Foundation, hospital emergency rooms admit more children between newborn and two years of age with scald and burn injuries than all other age groups. Most burn injuries occur in kitchens.

Parents can take precautions to keep hot vessels and liquids away from children.

- Monitor children's whereabouts at all times.
- Reduce water-heater temperature to 120° or less, and fit faucets with antiscald devices.
- Eliminate tablecloths and keep hot liquids at the table's center.
- Use potholders or oven mitts to move hot pots.
- Turn pot handles inward to prevent them from being touched.
- Keep children away from hot stove surfaces, especially when cooking with oil.
- Avoid storing food in cabinets above stovetops.

A too-tight lid

No matter how many precautions parents take, children may still receive injuries caused by poorly designed kitchen equipment. The parent of a child burned by steam from a pot won a jury verdict after suing the manufacturer and retailer that marketed the product. The parent's attorney demonstrated to the jury that the pot, which had a lid that fit far too tightly, permitted steam to build up, causing the explosion that burned the child.



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DISABILITY INSURANCE

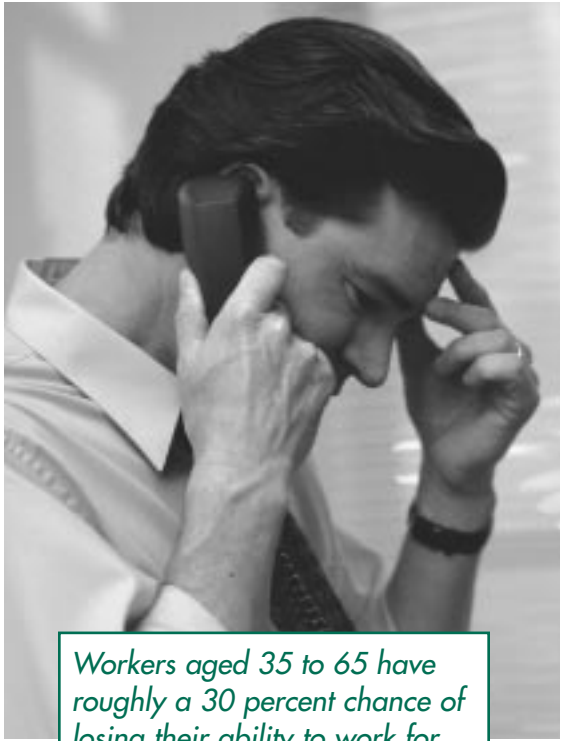
Disability injuries are common. Actuaries estimate that workers aged 35 to 65 have roughly a 30 percent chance of being temporarily disabled for three or more months. In 2001, nearly four million Americans suffered work-related disabling injuries.

Although many workers are protected by government Workers' Compensation and employer-provided disability programs, some purchase private disability policies to safeguard their families against benefit shortfalls. Typical short- and long-term private disability policy features may include wage

compensation as well as hospital, surgical, medical, and rehabilitation expenses. Policy benefit options are based on costs.

When insurers balk

A stockbroker suffering anxiety and depression filed a benefits claim under a private disability policy. After paying for seven years, the insurer terminated benefits when an informant alleged that the policyholder fabricated the disability. His lawyer sued the insurer, alleging bad faith, and a jury rendered a significant punitive damages verdict for the disabled worker.



Workers aged 35 to 65 have roughly a 30 percent chance of losing their ability to work for three or more months.

Why trial lawyers help others

Like most enterprises, our law practice is a business that makes money, hires employees, pays taxes, and provides a service.

From time to time, when we reflect on our reasons for being in business, we always return to several basics.

- To help those who have been wrongly injured by others. Often, those harmed do not have the fiscal and legal resources to battle the wrongdoers on their own.
- To provide all the authority that our wonderful civil justice system can offer so that those injured or cheated can become equals—in a public court of law—with even the most powerful of corporations, financial institutions, or manufacturers.

We're particularly fond of an Association of Trial Lawyers of America mission statement: *To promote the public good through concerted efforts to secure safe products, a safe workplace, a clean environment, and quality health care.*