



Medical Liability Reform

IN THE NEWS:

Patients who can't get the care they need because of the liability crisis

More and more Americans aren't getting the care they need when they need it because our legal system has turned into a lawsuit lottery where a few win and the rest of us lose. The “disappearing doctor” phenomenon is getting progressively and rapidly worse. It is an increasingly serious threat to everyone's ability to get the care they need.

These are just a few of the reports on the hurting patients and health care starved communities that are feeling first hand the need for common sense federal medical liability reforms.

Real Stories of Patients Hurt by the Liability Crisis

Mount Laurel Native Cindy Davis Hirsch: Waiting Months for a Mammogram

A shortage of doctors and technologists, fueled in part by doctors afraid of lawsuits, is forcing patients to wait months for routine mammograms. Cindy Davis Hirsch, 55, of Mount Laurel, NJ was shocked when she learned she had to wait 6 months for a mammogram. “I have been going once a year forever,” said Hirsch. “I have really good insurance. It never entered my mind it would affect me to this extent.” (*The Florida Times-Union, February 15, 2003*)

Leanne Dyess: Husband Brain Damaged After Six Hour Delay in Emergency Care

Leanne Dyess' husband Tony crashed his car and suffered severe head injuries, but the closest hospital did not have a specialist who could put a shunt into Tony's head. Mr. Dyess was airlifted to a medical center – six hours later. “I learned there were no specialists on staff that night...because rising medical liability costs had forced physicians in that community to abandon their practices,” said Mrs. Dyess. Her husband is now permanently brain damaged. “I had heard about some of the frivolous [lawsuits] and of course the awards that climbed into the hundreds of millions of dollars,” Dyess said. “And like most Americans, I shook my head and said, ‘Someone hit the lottery.’ But I never asked, ‘At what cost?’” (*Gannett News Service, February 12, 2003*)

Nancy Allen: Waiting Six Months To Have Lumps Removed from Uterus

The loss of OB-GYNs to high malpractice costs in Las Vegas is affecting pregnant and non-pregnant patients alike. As pregnant women take up dwindling patient slots, non-pregnant patients are finding it more and more difficult to get an appointment. Nancy Allen waited six months to have suspicious lumps removed from her uterus and ovaries. She would have waited longer, but went to her doctor's office and refused to leave until her hysterectomy was scheduled. "All that time it was going through my mind and my husband's that I might have cancer. We were so upset. I had these three tumors and we didn't know what they were." (*The Las Vegas Review-Journal*, November 5, 2002)

Jim Lawson: Dies in Distant Emergency Room One Day After Nearby Trauma Center Closes

The shock from Jim Lawson's July 4 death in a Nevada auto accident was felt well beyond his family and friends. The two-car crash on a busy street leading to the Las Vegas airport came just one day after the nearest trauma clinic, at the University Medical Center, closed down. The 58 orthopedic surgeons who rotate through the hospital had insisted on relief from the soaring cost of medical malpractice insurance. No one can be sure his death, confirmed at an emergency room an hour away, could have been avoided.... but it brought new attention to a national problem... (*Houston Chronicle*, July 20, 2002)

Ambur Peterson: Forced to Travel 100+ Miles Out of State to Deliver Her Baby

Ambur Peterson's obstetrician in Cleveland, Mississippi stopped practicing three weeks before her due date, and she had to drive out of state, over a hundred miles, to Memphis, Tennessee, to get the care she needed." (*U.S. Department of Health and Human Services*, July 24, 2002)

Thelma Anne Wandling: Losing Vital Specialists

"In the last few months we have lost three surgeons, a neurologist, a urologist, a gastroenterologist and an OB-GYN. Fortunately, we still have our primary care physician. In attempting to schedule an appointment with a new doctor, I learned that they were at this time scheduling for September 2003."- Thelma Ann Wandling, Charleston, WV, Letter to the Editor regarding the state losing doctors because of the medical malpractice crisis. (*Charleston Gazette*, October 26, 2002)

Marine Hawkins: Doctor Stops Delivering Babies Two Weeks Before Due Date

Marine Hawkins, 20, of Boyle, Mississippi, was shocked to hear from her obstetrician that he was closing his practice – just two weeks before her due date of July 21. The nearest doctor is 30 minutes away. She doesn't have a car, and will have to rely on relatives to get there. "This is isn't what I needed now," she said. (*Houston Chronicle*, July 20, 2002)

Richard Ide: Traveling Days For Neurological Tests

Richard Ide sometimes spends an entire day traveling to his doctor because high insurance premiums have decreased the number of neurosurgeons practicing in Northeastern Pennsylvania.

“Sometimes, it’s a three-day trip just to get a test taken,” said the 71-year old Ide, who suffers from two herniated disks. (*The Wilkes-Barre Times Leader, October 23, 2002*)

Laurie Peel, Marisa Eshleman and Paula Walsh: Forced to Look for New OB/GYNs

Dr. Stanley Prince’s patients felt helpless when the Ephrata, Pennsylvania OB-GYN decided to close his practice because of the cost of his medical malpractice insurance. “I think it is a shame I had to lose a good doctor because of insurance costs,” said Marisa Eshleman, who learned that she had to find a new doctor less than a month before her due date. Paula Walsh, whose twin sons were delivered by Dr. Prince said, “I am very devastated. Throughout the entire pregnancy, I felt like I was his only patient. I could call him day or night and he fit me in. He took care of me like you wouldn’t believe. He is just an incredible guy.”(*Lancaster New Era, January 15, 2003*)

Laurie Peel was happy to find Dr. John Schmitt after moving to Raleigh. She was 11 weeks pregnant and experiencing complications. She had been told over and over again by each OB-GYN office that she contacted that they were full and not taking new patients. Dr. Schmitt took her in. “In short, my relationship with Dr. Schmitt was everything one could hope for in a doctor,” Mrs. Peel said. “It’s also a relationship both he and all of his patients would very much like to continue. But we can’t because of the crippling cost of medical liability insurance. What he must pay to protect himself from the remote possibility of lawsuits (or at least legitimate ones) has prevented Dr. Schmitt from continuing the outstanding practice he had made his life’s work.”(*Congressional Testimony of Ms. Laurie Peel, Raleigh, NC, Before the Committee on Senate Judiciary, February 11, 2003*)

Helen Boone: Uncertain Her Oncologist Can See Her Through Cancer Treatment

“I don’t understand how this can happen”, said William Boone, whose wife, Helen, recently underwent cancer removal surgery. She started chemotherapy, not knowing if her surgeon would be able to see her completely through the process. “Are we supposed to go to the lawyers for surgery?” Boone asked. (*The Florida Times Union, June 30, 2002*)

Elizabeth Gromny: OB/GYN Can’t Deliver Her Baby

Elizabeth Gromny went through years of infertility treatments and conceived her first child after six years. When she called to make her first appointment with her obstetrician, she found that the doctor had just capped the number of deliveries she could perform. Gromny found this to be the case throughout Las Vegas because of malpractice costs. (*Time, September 16, 2002*)

Jim Chaffin’s Pregnant Patient: Can’t Find a Surgeon to Do Gallbladder Surgery

“Jim Chaffin, a local obstetrician, has a pregnant patient who needs gallbladder surgery, and he cannot find a surgeon to handle it.” (*The Florida Times-Union, June 30, 2002*)

Unnamed Aneurysm Patient: Can’t Get Emergency Room Treatment

Doctors in Florida are taking on less Emergency Room shifts partly due to skyrocketing medical malpractice insurance. ERs are left without specialists and must transfer patients to larger medical centers. In one case, a man with an aneurysm had to be transferred more than 30 miles from West Boca Medical Center to Memorial because no neurosurgeon was on call and no closer ER would take

him. "The guy was in bad shape already, so the transfer couldn't help," said Dr. Donald Krieff, a neurosurgeon. "If [an ER] can't find a specialist to do what needs to be done, they're kind of in trouble." Details about the outcome of the case were not available. (*South Florida Sun-Sentinel*, February 5, 2003)

Colon Cancer Patient: Unable to Find Skilled Surgeon

"In March, doctors at Nellis Air Force Base in Las Vegas sent a 34-year-old woman with colon cancer to Joseph Thornton, a highly experienced colon and rectal surgeon in the area. Because of the war in Afghanistan, most of Nellis' specialized surgeons are now deployed, and the remaining military doctors said they couldn't remove the cancer unless they cut out the woman's entire colon, leaving her with a colostomy bag to drag around and empty the rest of her life. They hoped that Thornton's expertise might offer a better outcome. Just one problem, Thornton, at the age of 56, retired on March 31 because his malpractice insurance company was closing, and he couldn't afford what the insurers were charging. He paid \$35,000 last year for malpractice insurance, but the going rate in Nevada now is \$100,000 or more for a surgeon. The woman showed up in Thornton's office just before his retirement, but she needed chemotherapy and radiation first, and the surgery couldn't be performed before Thornton's policy expired. "It broke my heart," he said. "I felt like I was planning my own funeral." (*National Journal*, May 18, 2002)

Shelby Wilbourn's Patient: Lifesaving Emergency OB Care May Be Endangered

"OB-GYN, Shelby Wilbourn wonders who will deliver the 500 babies born each week in Las Vegas and if there will be any OBs to take emergency calls like the one he recently answered. The patient was 34 weeks pregnant, in premature labor and hemorrhaging, and her baby's heartbeat was frighteningly low. Wilbourn arrived in minutes, and both mother and children made it successfully through childbirth. If this were next year," he contends, "that baby would have died." (*U.S. News and World Report*, July 1, 2002)

Ruth Parker: Waiting Six Months for a Routine OB Appointment

"I had to wait six months for a routine OB appointment," said Ruth Parker of Salt Lake City. An informal survey of several obstetricians' offices found waits as long as eight months for women who are not currently pregnant. (*Deseret News*, May 24, 2002)

In New Jersey and across America, people are being denied access to care because our broken lawsuit system is driving doctors out of business. We know medical liability reform works because several states across the country have adopted common sense reforms and we've seen the results. For example, California suffered from a health care crisis in the 1970s similar to the one gripping New Jersey today. The reforms that California passed in 1975 have stabilized the insurance market and maintained access to quality care in that state for nearly 30 years.

It's time for the New Jersey Assembly to support strong, common sense medical liability reforms like those proposed in the Senate version of Assembly Bill 50

