

Tragic insight into 'malpractice reform'

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Medical negligence isn't a topic I gave much thought to until my 6-year-old son went to the hospital sick for the first time in his life and died of oxygen deprivation. A happy little boy, with no history of breathing problems, no allergies ... never sick. Christopher was my only son. His daddy, my husband, had died of cancer a few years earlier.

In experiencing the death of my husband and son, I have seen the best medical professionals and the worst. I have seen the most caring, and the least.

I buried my husband knowing that medical professionals did everything they could. I buried my son knowing that medical professionals failed him at the most basic level.

Acting without due care

In my attempt to uncover the truth about what happened to Christopher, I took legal action.

I was represented by wonderful and caring attorneys. Throughout 18 months of litigation and over 40 depositions, I saw medical professionals who - resisting pressure from their colleagues - had the courage to testify that the care provided to Christopher fell far short of the minimum standard of care. I also saw medical professionals lie under oath, and doctors and lawyers who seemed to have no qualms about defending the indefensible.

Through my medical and legal experiences, I learned the meaning of negligence ... a failure to act with due care. I am now concerned with political negligence - legislators failing to act with due care.

How big is 'defensive medicine'?

Lobbyists for the medical and insurance industries tout "malpractice reform" as an essential part of a health care bill. When they talk about "malpractice reform," they do not mean taking steps to reduce medical malpractice. Instead the reforms they seek would prevent injured patients and their families from discovering the truth and seeking redress in the courts.

Our congressional representatives need to look behind the "malpractice reform" propaganda, and consider the facts.

We are told that doctors will stop ordering unnecessary tests and procedures if they are freed of the threat of malpractice lawsuits. Both the Government Accounting Office and

the Congressional Budget Office have issued reports questioning the pervasiveness of "defensive medicine" and concluding that meddling with the legal system will have a minimal effect on health care costs. When doctors and hospitals have an economic incentive to order additional tests and procedures, we should be skeptical of their claims that they were motivated by the fear of being sued.

One of the lessons of Christopher's unnecessary death - and my necessary lawsuit - is not that health care providers need to engage in cost-inflating "defensive medicine." Instead, it is that doctors and nurses must pay attention, communicate with their colleagues and adhere to well-recognized standards of practice.

Barriers to suits already high

In North Carolina, patients have no incentive or opportunity to file a "frivolous" malpractice suit. Since 1997, N.C. law has provided that a patient cannot file a medical malpractice case unless a qualified expert has agreed to testify that the case has merit. Malpractice cases are costly to pursue, requiring the patient's lawyer to incur at least \$50,000 in litigation expenses and often (as in my case) many times that amount. Juries in North Carolina are conservative, and overwhelmingly favor the health care provider.

With so many legal and economic barriers facing patients and their families, the number of malpractice suits filed in North Carolina has steadily declined, and last year dropped to the lowest level since the courts began gathering data in 1998. At the same time, the number of doctors in North Carolina continues to increase, and the rate of growth in the physician population far outpaces the growth in our total population.

Every year, tens of thousands of patients die because of medical errors. To improve patient safety, doctors and hospitals must be accountable for their negligence. Enacting legislation that erodes patients' access to the courts will diminish the quality of care without reducing medical costs.

Laurie Sanders and her daughter live in Charlotte. She settled her case in 2007; the terms are confidential.



Respiratory arrest led to Christopher's death in '06



Laurie Saunders won a settlement with a pediatrician and Presbyterian Hospital after her son's death.