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Medical Malpractice Cuts not the Answer

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Medical malpractice cuts not the answer.

Tort reform--legislation that aims to reduce medical malpractice suits --will not cut medical costs and improve health care unless the government addresses the proliferation of unnecessary medical errors that victimize hundreds of thousands of patients every year, contends Ruqaiyah Yearby, associate professor in the University at Buffalo (N.Y.) Law School.

Yearby's research considers how laws enacted to grant equal access to quality health care actually can pose barriers to the disenfranchised, and she is critical of health care reform efforts that do not address the far-reaching problem of medical errors. Finding ways to curb what she calls the "alarming rate of these medical errors," not only will reduce medical malpractice suits, but save lives and prevent the misery of innocent victims, she asserts.

[ILLUSTRATION OMITTED]

Yearby, who directs the Joint JD-Master of Public Health Program, cites data from the Institute of Medicine, the health arm of the National Academy of Sciences, regarding medical errors and their consequences. "The IOM concludes that about 98,000 Americans died from unnecessary medical errors in 2000, deaths that cost the nation approximately \$39,000,000,000." In August of this year, she adds, additional data showed that deaths from unnecessary medical errors have increased to about 200,000, making medical error the third-leading cause of death in the U.S.

"Instead of adopting the IOM's recommendations to prevent such medical errors, however, Federal and state governments have elected to focus on tort reform," Yearby scolds. While such reform has led to minimal reductions in the costs of health insurance and a reduction in medical malpractice suits, Yearby indicates that the underlying problem of poor-quality health care persists.

In 2003, for instance, she points out that Texas voters approved a plan that capped noneconomic damages in medical malpractice lawsuits at \$250,000. "The result was that the number of malpractice lawsuits was cut in half; malpractice premiums declined by 30%; and there has been a 30% increase in newly licensed physicians.

Despite this, however, one in four Texans remains without health insurance--the highest percentage of uninsured in the country--and health care spending in Texas is growing faster than in any state.

"We need to create a mandatory national medical error reporting system and adopt initiatives that mandate the disclosure of medical errors," Yearby argues, as well as strongly urging states to require health care facilities and practitioners to apologize for errors and compensate patients or families for harm.

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