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New Study Finds “Frivolous” Litigation Unlikely in Medical Malpractice Lawsuits

RALEIGH – New research published in the May 11 edition of the *New England Journal of Medicine* establishes that almost every medical malpractice suit filed in the United States has a meritorious basis and rejects claims that the civil justice system is inundated with frivolous lawsuits.

“This study, conducted by the highly-respected Harvard School of Public Health, disproves once and for all claims made by insurance companies that the civil justice system is overrun with frivolous litigation,” said Dick Taylor, CEO of the North Carolina Academy of Trial Lawyers. “In fact, one of the study’s main findings is that our current malpractice system performs reasonably well.”

An *Associated Press* account of the study published in newspapers across the country misstated the facts surrounding the study. The AP story said 40 percent of all malpractice claims are groundless, which is in no way substantiated by the study. Apparently the reporter combined the 3 percent of claims that didn’t involve injury with the 37 percent in which an injury occurred but no negligence was found. There’s a world of difference between the two.

The Harvard study found that most malpractice cases are meritorious, with 97 percent involving injury. Furthermore, 80 percent of the claims involving physical injuries resulted in major disability or death.

Notably, the study concluded that the incidence of patients seriously injured as a result of medical negligence who don’t receive compensation is a far larger problem than cases where substantial monetary damages are awarded where negligence is not present.

Here in North Carolina, the insurance industry claims we face a health-care crisis driven by runaway jury awards. The facts simply do not back that up. According to data from the North Carolina Administrative Office of the Courts, in the small percentage of malpractice cases in which the plaintiff won at trial and obtained a verdict on damages, the median jury award was \$300,000 – not the millions the insurance industry would like people to believe.

“This study uncovers the truth behind the “tort reform” rhetoric: placing one-size-fits all caps on damages are unnecessary and merely a ploy by the insurance industry to pad their profit margin,” said Taylor.

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