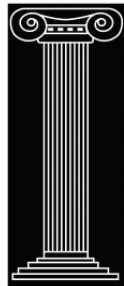


Blown Out of Proportion:
How Truthful Are the Claims
Against Malpractice?

Presented by:

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Blown Out of Proportion: How Truthful Are the Claims Against Malpractice?

President Bush has previously proposed the enforcement of a \$250,000 hard cap on medical malpractice awards for non-economic damages. To the surprise of four legal scholars, a recent study of malpractice claims filed over a 15-year period in Texas revealed that malpractice is not as hot of an issue as it has been made out to be. After the scholars compiled a report on their findings, they are quoted to have said, "We find no evidence of the medical malpractice crisis that produced headlines over the last several years and led to legal reform in Texas and other states."

The state of Texas was of particular interest to the scholars because it is the second state with the largest population and ranks third in health care spending. Within this study, it was discovered that between 1988 to 2002, there was little change in the number of claims filed or total amount paid in damages, when adjusted for population growth and inflation. With this in mind, the scholars concluded that, "So, at least in Texas, the tort system can't be the cause of spikes in malpractice premiums."

The facts become increasingly more interesting, as highlighted in the following list of findings reported by the legal scholars:

- Malpractice insurance premiums in Texas rose an average of 135 percent from 1999 to 2002, prompting the state legislature to cap non-economic damages in 2003.
- The total number of claims per physician actually declined from 1995 to 2002, and 80 percent of cases were resolved without payment by the physicians or hospital.
- The \$515 million in malpractice payouts in 2002 represented 0.6 percent of health care spending in Texas that year.
- Settlements of more than \$1 million have represented about 5 percent of the total number of claims, or about 53 cases each year. Legal defense costs also rose, but at a steady rate that can be easily managed by insurers.

Later President Bush further defended his point on this topic during a speech given in Illinois. "What's happening all across this country is that lawyers are filing baseless suits against hospitals and doctors, so doctors end up paying tens of thousands, or even hundreds of thousands, of dollars to settle claims, out of court, even when they know they have done nothing wrong." Bush continued to point out that, "When insurance premiums rise, doctors have no choice but to pass some of the costs on to their patients. If you're a patient, it means you're paying a higher cost to go see your doctor."

According to the legal scholars' Texas study, there is microscopic evidence to support these defenses. Considering all the angles of the issue, from the amount of claims filed to paid damages, the statistics show remarkable steadiness in the tort system, according to the peer-reviewed paper appearing in the May issue of the Journal of Empirical Legal Studies (www.utexas.edu/law/academics/centers/clcjm/preview). The group wrote, in part, "Attempts to avoid crises in malpractice insurance prices should focus on insurance, not litigation."

If you are concerned about how your medical issues are or have been handled, contact Krueger & Hernandez SC today toll free at (866) 455-2993. Our experienced litigation attorneys will handle your case with the care and sensitivity that it deserves.



ABOUT THE AUTHOR

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WISCONSIN BASED ATTORNEY MARK KRUEGER HAS OVER 23 YEARS EXPERIENCE AS A TRIAL ATTORNEY.

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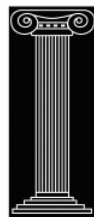
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