



# In the Literature

## MALPRACTICE REFORM MUST INCLUDE STEPS TO PREVENT MEDICAL INJURY

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Reducing medical injury is essential to solving the current medical malpractice crisis, and physicians must play an active role in developing and implementing systems to improve patient safety, according to an article published in the January 6 *Annals of Internal Medicine*.

In “Malpractice Reform Must Include Steps to Prevent Medical Injury,” Stephen C. Schoenbaum of The Commonwealth Fund and Randall R. Bovbjerg of the Urban Institute say that focusing solely on capping malpractice awards ignores the largest problem: patient injury.

“Physicians must use their abilities to make care safer and injuries rarer, by developing, evaluating, and implementing safety improvements,” says Schoenbaum, the Fund’s senior vice president. “More active work on the part of physicians to improve care and reduce harm is clearly in the best interest of the public and physicians.”

The current medical liability system works poorly for patients and physicians, the authors say. Because of steep increases in malpractice premiums, physicians tend to practice “defensive medicine,” ordering unnecessary medical tests, procedures, and referrals for their patients. Not only are patients exposed to unnecessary physical risk, but health care costs rise even further. Meanwhile, large numbers of Americans continue to suffer preventable medical injuries.

Schoenbaum and Bovbjerg point to past physician-led reforms that could serve as models for safety improvement. One example they cite is the highly successful effort of anesthesiologists in the mid-1980s, who adopted practice guidelines that reduced both patient deaths and in-

surance premiums dramatically. The experience with such models has shown that system-wide reform, rather than blaming individual physicians, leads to more effective improvements in patient safety.

A number of legislative or regulatory efforts would motivate this type of change, say the authors:

- States could implement physician licensure requirements, such as the risk management training required by the Massachusetts Board of Registration.
- Insurance regulators could provide premium discounts on malpractice insurance based on doctors’ performance—an upfront investment in quality improvement that would reap savings in the long term.
- Tort reform could be contingent on reporting of errors, or implementing specific activities that increase patient safety.
- Health plans, Medicare, and Medicaid could provide partial subsidies of physicians’ premiums in return for specific safety enhancements.
- Doctors could invest in tools such as electronic prescribing aids and automated systems for tracking of tests.
- Better information on patient safety could be collected and reported to facilitate safety improvement and physician involvement.

If the public begins to perceive that physicians are actively seeking to guard patient safety and learn from errors, then patients will likely become more forgiving when problems arise, the authors say. As a result, physicians will be in better position to avoid liability claims or reach reasonable settlements.