

## **A New Approach to Medical Malpractice**

### **Our Approach to Medical Errors is Failing**

**Dangerous:** Preventable medical errors kill more people in the United States each year than automobile wrecks. This is the equivalent of a jumbo jet crashing every day with no survivors. This is more than three times greater than the total of all U.S. personnel fatalities during the Vietnam War between 1955 and 1975.

**Expensive:** Defensive medicine — unnecessary procedures and tests ordered to protect health care providers in case of a lawsuit — and medical errors cost as much as \$670 billion a year — that's \$8,740 for the average family of four.

**Ineffective:** You are just as likely to be a victim of a medical error today as you were three decades ago.

**Unfair:** If you are injured by a medical error, your chances are less than 2-in-100 of receiving compensation for your injuries by a jury. If you are poor or elderly, your chances are even lower.

**Slow:** Injured patients must wait, on average, 4-5 years to receive compensation — time that could have been used for rehabilitation.

**Inefficient:** Once victims receive compensation, an average of half the award will be lost to legal and administrative costs.

### **Georgians Deserve Better**

- From a social justice perspective, it is unacceptable that most victims, especially the poor and elderly, are not compensated for their injuries.
- From a patient safety perspective, it is unacceptable that patients today are no safer than they were in the 1970s.
- From a cost perspective, it is unacceptable that medically unnecessary costs are dramatically increasing the cost of health care.

Georgia, including individuals, employers and government, could save \$11 billion by implementing PCS, according to a recent [actuarial study](#). The State could save as much as \$3.5 billion on Medicaid alone.

### **A Better Solution: The Patients' Compensation System Quick and Fair Compensation, Fewer Errors and Lower Cost**

The Patients' Compensation System (PCS) is an alternative to adversarial medical malpractice litigation. PCS draws upon what works in the U.S. workers' compensation system, other nations and within innovative medical malpractice solutions tested and proposed by others. PCS is designed to lower health care costs by reducing the practice of defensive medicine, reducing the physician shortage in Georgia and providing patients with fair and timely compensation for avoidable medical injuries without the expense and delay of the court system.

Each patient submitting a claim will be assigned a patient advocate. Claims will be reviewed by a professional, independent medical review panel and compensation will be provided based on a schedule developed by a Compensation Committee. Patients may appeal all decisions to an administrative law judge. Findings of medical injury will be reported to the Georgia Medical Board for action.

Finally, and perhaps most importantly, the Patients' Compensation System will focus on improving the overall quality of patient care by encouraging the reporting of medical errors so the medical community can learn from avoidable errors.

Access more information here: <http://tinyurl.com/7flxf93>

### **What the experts are saying:**

Dr. John Goodman, president of the National Center for Policy Analysis:

“As things now stand, the only way a victim of an adverse medical event can get compensation is by filing a lawsuit, enduring its trauma and discomfort, and trying to prove malpractice. Yet only 2 percent of victims of malpractice ever file a lawsuit. Fewer still ever receive any compensation. On the other hand, 37 percent of lawsuits filed involve no real malpractice. To add insult to injury, more than half the money spent on malpractice litigation goes to someone other than the victims and their families.”

Source: <http://healthblog.ncpa.org/an-alternative-to-malpractice/>

Tom Baker, professor of law and health sciences at the University of Pennsylvania School of Law:

“Imagine you go to the emergency room with appendicitis. For whatever reason, they fail to diagnose it. Your appendix bursts, and you spend a couple weeks in the hospital. I've had lawyers tell me they would not take a case like that, even if it's a slam-dunk. The damages wouldn't be enough — medical expenses, maybe a month of lost salary, although the patient might have short-term disability insurance that would cover a large part of that. It's not enough to justify going to court.

“The medical malpractice system only works for serious injuries. What it doesn't work for is more moderate ones. Lawyers discourage people from bringing suits if their injuries are not serious in monetary terms — a poor person or an older person who can't claim a lot in lost wages. That's why obstetrician-gynecologists pay such high premiums. If you injure a baby, you're talking about a lifetime-care injury. Gerontologists' premiums are exceedingly low.

“That's the reason I say if people are serious about tort reform, they should improve compensation for moderate injuries. Nobody likes that idea, by the way. They say it would make the system more expensive, not less expensive. More people would bring claims. That says to me that the critics are not serious about tort reform.”

Source: New York Times, August 31, 2009,  
<http://prescriptions.blogs.nytimes.com/2009/08/31/would-tort-reform-lower-health-care-costs/>