

## *The Only Real "Medical Malpractice Reform" Is Prevention*

by Andrew Cochran

January 30, 2012

There's a great article in [The Washingtonian magazine today](#) titled, "Minor Mistakes, Deadly Results," about the thousands of deadly medical errors occurring annually and the measures taken by Washington-area hospitals to prevent them. Here's the beginning of the article, with a story that illustrates the cases and should break your heart:

*When Frances Barnes had a stroke in August 2008, she was taken by ambulance to Howard University Hospital. The 80-year-old grandmother was there for about two weeks when she began complaining about pain in her legs. Her daughter Althea Hart pulled back her mother's blankets and noticed a strange odor. Hart thought the smell was coming from the compression stockings wrapped around Barnes's legs to help with circulation, so she took them off. She found that her mother's left foot had turned black.*

*Hospital staff had failed to follow physician orders, which required taking off the compression stockings after each shift for at least 30 minutes, according to a DC Department of Health investigation.*

*"We called a nurse right away, and they tried to heal her infection," says Patricia Moss, another of Barnes's daughters. "But they couldn't."*

*Barnes's family moved her to Providence Hospital in Northeast DC, where she had to have her lower leg amputated. Barnes moved to a nursing home, where she continued to get infections; she died at Providence in February 2009, five months after her foot turned black. Barnes left behind eight children, 15 grandchildren, and 16 great-grandchildren.*

The facts are startling. Medical malpractice appears to be worsening. "In 2010, the federal government estimated that faulty medical care contributed to the death of about 15,000 Medicare patients per month. By these measures, faulty hospital care is one of the leading causes of death, behind heart disease and cancer." And surgery on the wrong location in body happens "as often as 40 times a week in US hospitals and clinics," according to the Joint Commission, which accredits American hospitals. All this despite

the use of a universal protocol in accredited hospitals as a way to eliminate wrong-site surgeries.

[On March 23 of last year](#), I wrote about surveys of operating room and critical care nurses that revealed shocking instances of medical malpractice. For instance, 85% of 2,383 nurses surveyed said they'd been in a situation where measures such as checklists and protocols warned them of a problem that would have otherwise harmed a patient. But 58% of the nurses said they'd been in situations where it was either unsafe to speak up or they were unable to get others to listen.

[Tort reformers screaming for an unconstitutional federal takeover of state courtrooms and tort law](#) should think a little more logically. The most important and successful way to institute valuable reforms in the medmal area is to institute cost-effective prevention mechanisms. State legislatures and Medicare should concentrate on requiring such protocols, not trying to limit the damage on the back end through limits on medical malpractice lawsuits. As the libertarian Cato Institute demonstrated last year, [caps on medmal awards only hurt consumers](#), they don't reduce deadly medical errors.

Fix the problem at its source and you'll see real reductions in the number of medical malpractice lawsuits.