



Bridging The Medical Malpractice Rift Between Physicians And Attorneys

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Not long ago, I was sitting in a physician's office - a physician who is also a close friend - when I realized I was reading a tort-reform poster on the wall in his lobby. I discussed with him why I disagreed with the contentions in the poster and with his posting of it in his lobby. Next visit, the poster was gone.

It is widely accepted that many physicians and attorneys - at least, plaintiff-side tort attorneys - are on the opposite side of a major fault line in our society related to medical malpractice litigation. The American Medical Association fights for statutory limits on damages and other so-called "tort reform" measures. The [AMA claims](#) that such changes are necessary to reduce malpractice premiums and increase access to health care. The [American Association for Justice and other associations fight these efforts](#), on the grounds that such limits are unfair, and do not actually lower medical malpractice premiums. As addressed in Wertheimer, [Calling it a Leg Doesn't Make it a Leg: Doctors, Lawyers and Tort Reform](#), Villanova Univ. School of Law Working Paper Series, Year 2008, Paper 123, many now recognize that the economy, low interest rates, recessions and other factors contribute much more to an increase in medical malpractice premiums than do the size of those relatively infrequent medical malpractice verdicts. Even the "free market/limited government" Cato Institute - with supporters such as George Will - recently acknowledged, after a [comprehensive study](#), the many problems with damages caps. The fight has gone on for decades, and will continue for years to come. It is very difficult to see any light at the end of this debate's tunnel.

Despite the conflict over medical malpractice, there are areas in which physicians and lawyers have found common ground. For example, Health Law Advocates in Boston brings together lawyers, health care professionals, members of the insurance industry and others with the common purpose of providing "[pro bono legal representation to low-income residents experiencing difficulty accessing or paying for needed medical services.](#)" Although it is a public interest law firm, its Board of Directors and Advisory Committee include physicians, insurance professionals and others. In addition to advocating for system-wide legal change, HLA has directly saved people's lives by fighting to obtain the insurance and health benefits to which they are entitled.

The Medical-Legal Partnership in Boston is a close collaboration between doctors and lawyers. It "[is an interdisciplinary team of health care staff, attorneys, and paralegals who integrate legal assistance into the medical setting as a vital component of patient care](#)" ensuring "[that low-income patients are able to meet their basic needs for food, housing and utilities, education and employment, health care, and personal and family stability and safety.](#)" Its success has led to a national network of more than [235 health institutions nationwide at 83 sites](#). This week, the Massachusetts Bar Association has announced a pro bono partnership with MLP, using the following example of the way a physician and lawyer can provide their unique skills to address similar problems: "[A doctor in the emergency room can treat a child's respiratory troubles, but a lawyer is instrumental to ensure that the landlord removes the mold that triggered the illness.](#)"

The primary purpose of these and other partnering efforts between the medical and legal professions is to enhance the quality and accessibility of health care and other basic needs to those who find it difficult or impossible to make ends meet. But a secondary result of bringing together physicians and attorneys in these joint, public-spirited activities is a realization by both that they share the common belief in helping society, and particularly in aiding those who do not have the resources to satisfy their most critical needs. As these efforts spread, by working together, developing positive relationships and increasing communication, perhaps the two groups could even begin to find common ground on the thorny issue of medical malpractice litigation.

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