

In a recent study published in [The BMJ](#) (formerly the British Medical Journal), one of the foremost medical journals in the world, two researchers from Johns Hopkins concluded that medical errors account for more than 250,000 deaths every year in the United States. This places these preventable errors in an inauspicious place – the third leading cause of death for Americans, only behind heart disease and cancer. If we take a moment to let that sink in, the sheer magnitude of the problem comes into view – preventable medical errors kill more of us each year, in the country which is supposed to have the best healthcare in the world, than respiratory disease, accidents, stroke, Alzheimer's, diabetes, pneumonia, kidney disease or suicide.

Why this is the case and what can be done to prevent these numbers from growing are obviously the most important questions this study attempts to answer. The authors in fact present a myriad of arguments for improving outcomes, including: (1) the CDC requiring physicians to report whether there was an error that led to a preventable death; (2) providers standardizing healthcare delivery protocols in a way similar to the airline industry's uniformity from carrier to carrier; and (3) hospitals and healthcare professionals not only doing more to investigate errors when they occur, but also sharing the results of what they find as opposed to hiding the information under a veil of "confidential proprietary information."

Hopefully this study will lead to better outcomes for all of us going forward. Unequivocally, the most important conclusion of this study is that the healthcare industry needs to make some serious changes to better protect patient health. That said, the study also provides a brand new opportunity to reflect on the scope of the disastrous "tort reform" legislation enacted by North Carolina lawmakers in 2011.

As many lawyers know, and victims of medical errors have come to learn, "tort reform" was masterfully sold to the American people as being necessary to bring insurance premiums down and curb "frivolous lawsuits." In reality, tort reform measures were conceived of by enormous corporations and insurance companies for the purpose of creating a body of laws where they could operate with near impunity and not take financial responsibility for the harm they cause. These same entities then financed the campaigns of legislators they knew would enact such legislation once elected. While it was already an uphill battle for injured people in North Carolina, the 2011 crop of lawmakers (ostensibly the same ones who are there today) in the General Assembly took it to a whole new level.

One can easily find deep and thoughtful analysis, beyond the scope of this article, regarding how the North Carolina Legislature eviscerated the rights of North Carolina citizens injured through medical negligence. From requiring the injured to basically prove their case before they file a complaint, to not allowing evidence of all the medical bills incurred, lawmakers have handed a square advantage to hospitals and insurers. Most troubling in the 2011 Amendments though is the \$500,000 cap on non-economic damages. For the non-lawyers reading this, think of economic damages as lost wages and medical bills, and non-economic damages as "pain and suffering." By capping non-economic damages, what the Legislature is saying to all North Carolina citizens, is the life of a person killed by medical negligence who made a lot of money is worth more than the life of someone who was also killed by medical negligence, but didn't make as much money. This charade, passed under the guise of "lowering insurance premiums" and "stopping a mass exodus of doctors from our state," does neither, but in reality disproportionately affects women, children, the elderly and others who either have no income or are paid less than their male counterparts.

Recognizing so many people die in the United States every year from medical errors is an important step, but it does nothing for those North Carolina citizens already injured by the negligence of healthcare providers. By taking away these individuals' access to the courts, our current legislators have sent a clear message that they are more concerned with protecting insurance company profits than the rights of the injured. Until we collectively stand up and refuse to be lied to by our elected representatives, we can expect more and more of our rights to be stripped away, while fewer and fewer of those who negligently injure you, your parents or your children, will ever have to answer for the harm they are responsible for.