

February 11, 2010

President Barack Obama  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Dear President Obama:

As survivors of medical negligence and as patient safety advocates, we are writing to you again about the issue of medical malpractice and so-called “tort reform.” Many of us have family members who were lost or severely injured as a result of medical negligence. While the insurance and medical lobbies continue to attack us, it has been extremely heartening to know that, so far, you have stood strongly on our behalf, and on behalf of all patients.

However, we are extremely concerned that this issue will again be raised as part of the bipartisan health care summit that you announced for February 25. We urge you to please keep additional “tort reforms” out of the health insurance reform bill, beyond what the House and Senate have already agreed to. This would include proposals like “caps” on compensation for families who need these funds to survive; one-sided use of clinical guidelines as a means of removing accountability for providers (we believe patient safety will suffer from such a “one size fits all” approach especially given conflicts of interest by those who would develop these guidelines); systems that involuntarily remove cases from the jury system; and any other proposal that is onerous, unfair to patients and prevents legitimate cases from going forward.

Many of us have the misfortune of living in states with “caps” and other laws that make it difficult or impossible to have cases heard before judges and juries. We have heard some commentators say lately that there is “no downside” to tort reform. They need to spend a day in our shoes.

These laws have had terrible consequences for us, for injured patients who have been shut out of courts altogether, and for patient safety, in general. They have also burdened taxpayers since some of us have had to turn to taxpayer-funded health and disability programs to provide for our injured family-member. It would be a tragic mistake to impose such “tort reform” laws on the rest of the country. Please remember:

- The extent of medical errors is a real crisis; hospitals are unsafe and the doctor discipline system is a national disgrace.
- Proposals that reduce the accountability of unsafe hospitals and incompetent doctors will lead to more errors and system costs.
- Liability limits shift costs of caring for malpractice victims from perpetrators of malpractice to state Medicaid systems and taxpayers.
- Even if you imposed the most severe limits on patients’ rights, savings would total at most only ½ of 1 percent of total health care costs.

Provision of medical care should never be accomplished by taking away the right to trial by jury for someone who was injured through no fault of their own, or reducing the accountability of anyone who commits wrongdoing. Medical malpractice has taken a huge toll on all of our lives, as it has on the hundreds of thousands killed or injured each year due to preventable medical errors. Please continue to explore ways to improve patient safety and reduce unnecessary deaths, not diminish accountability for wrongdoers, limit our right to have cases heard before judges and juries, and burden taxpayers with the bill.

If you have any questions or would like to discuss this further, please let our contact person know: Joanne Doroshow, from the consumer group the Center for Justice & Democracy, 90 Broad St., Suite 401, New York, NY 10004. You can reach her at (212) 267-2801 or email her at [joanned@centerjd.org](mailto:joanned@centerjd.org).

Sincerely,

Molly Akers  
New Lenox, IL

Molly received an unnecessary mastectomy after being falsely diagnosed with breast cancer.

Barbara Becker  
Evansville, IN

Barbara's mother died in a nursing home after a mentally ill patient attacked her.

Michael Bennett  
Baltimore, MD

Michael's father died from being infected with at least six strains of hospital-spread bacteria after being admitted to the hospital with a respiratory virus.

Elie Ghawi  
St. Charles, IL

Elie had the wrong side of his brain operated on.

Lisa Gourley  
Omaha, NE

Lisa's son, Colin, developed cerebral palsy and brain damage as a result of a doctor's negligence during delivery.

Donna Harnett  
Chicago, IL

Donna's son, Martin, developed cerebral palsy and brain damage as a result of a doctor's failure to deliver in a timely manner. Martin died this month at age 14.

Lauren Lollini  
Denver, CO

Lauren, along with thirty-five other patients at a Denver hospital, became infected with Hepatitis C, after a hospital staff person used hospital syringes for drug use.

Dylan Malone  
Everett, WA

Dylan's son, Ian, suffered severe brain damage at birth after a doctor used a drug to induce labor that the manufacturer explicitly warned should not be used for that purpose. Ian died at age four.

Justin Mattes  
Woodcliffe Lake, NJ

Justin developed cerebral palsy during a breech birth, in which the doctor failed to perform a Caesarian Section.

John McCormack  
Pembroke, MA

John's 13-month-old daughter, Taylor, died of a brain injury after a neurosurgeon in the emergency room has his pager on mute and did not answer pages. The operating room nurse stated that Taylor's condition would have been treatable if a neurosurgeon had been available.

Rev. Michael Moran  
New Milford, CT

Michael's mother-in-law suffers from permanent, severe disability from a stroke caused when a nurse delivered an overdose of Heparin.

Patti O'Regan, ARNP, ANP, NP-C, PMHNP-BC  
Board Certified Nurse Practitioner  
Adult Primary Care & Psychiatry  
Port Richey, FL

Kathy, Scott, and Steven Olsen  
Chula Vista, CA

Steven is blind and brain-damaged because an HMO refused to give him an \$800 CAT scan when he was 2-years-old. His jury award was severely capped by California's law.

Jean Rexford  
Redding, CT  
Executive Director, CT Center for Patient Safety.

Lisa and Wil Searcy  
Scottsville, VA

Lisa and Wil's daughter, Cara Leigh, died of cardiac arrest due to complications during kidney removal surgery. Despite the nurse's calls to the surgical team, she was allowed to deteriorate for sixteen hours.

Patty Skolnik  
Denver, CO

Director of Citizens for Patient Safety

Patty's son, Michael, developed severe brain injuries and later died after a botched brain surgery.

Mary Steinberg  
Chicago, IL

Mary's husband died after a surgery, in which a four-inch metal retractor was left lodged against his intestine.

Ken and Brenda Stoltz  
Leesburg, VA

(Their story is subject to confidentiality agreement, but they add: "The right to sue is the last line of defense for consumers of medical care. In many instances, if not most, it is the only way to get a public record, hold the individual responsible and/or receive just funds for care, pain and suffering. We beg Congress not to limit our right to seek these things under the law. I would love to share our personal story, but I am unable to due to confidentiality agreement.")