



Center for Justice & Democracy
90 Broad Street, Suite 401
New York, NY 10004
Tel: 212.267.2801
centerjd@centerjd.org
<http://centerjd.org>

A MEDICAL INDUSTRIAL COMPLEX THAT LIES

In their March 10, 2011 “Statement On Medical Liability And Negligence,” the Greater New York Hospital Association and Medical Society of the State Of New York, cite the following as the basis for arguing that brain-damages babies and other medical malpractice patients must have their rights permanently stripped away. They say:

“Studies published in *The New England Journal of Medicine* have shown that in the vast majority of medical liability claims—83%—there was no negligence. And often, the key predictor of pay-out was the degree of a plaintiff’s disability, *not* the presence of negligence.”

This is a complete fabrication.

In May 2006, the Harvard School of Public Health published a study in the *New England Journal of Medicine* about the medical malpractice system, finding that “portraits of a malpractice system that is stricken with frivolous litigation are overblown.”

Lead author, David Studdert, associate professor of law and public health at HSPH, said, “Some critics have suggested that the malpractice system is inundated with groundless lawsuits, and that whether a plaintiff recovers money is like a random ‘lottery,’ virtually unrelated to whether the claim has merit. These findings cast doubt on that view by showing that most malpractice claims involve medical error and serious injury, and that claims with merit are far more likely to be paid than claims without merit.”¹ The authors found:

- Sixty-three percent of the injuries were judged to be the result of error and most of those claims received compensation; on the other hand, most individuals whose claims did not involve errors or injuries received nothing.
- Eighty percent of claims involved injuries that caused significant or major disability or death.
- “Disputing and paying for errors account for the lion’s share of malpractice costs.”
- “Previous research has established that the great majority of patients who sustain a medical injury as a result of negligence do not sue. ... [F]ailure to pay claims involving error adds to a larger phenomenon of underpayment generated by the vast number of negligent injuries that never surface as claims.”

¹ Press Release, Study Casts Doubt on Claims That the Medical Malpractice System Is Plagued By Frivolous Lawsuits, Harvard School of Public Health, May 10, 2006. <http://www.hsph.harvard.edu/news/press-releases/2006-releases/press05102006.html>; David M. Studdert, Michelle Mello, et al., “Claims, Errors, and Compensation Payments in Medical Malpractice Litigation,” *New England Journal of Medicine*, May 11, 2006.