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TARGET: JURIES

The Real Aim of Medical Malpractice “Reform”

Have you checked your auto, homeowners, or business insurance premiums lately? They're way up. Why? Because insurance companies, which like to gamble in the stock and bond markets, have taken a drubbing. They're trying to recoup by boosting premiums.

Insurers have jacked up medical malpractice insurance rates, too. Doctors are howling. In headline-grabbing strikes across the nation, they proclaim they can't practice medicine without affordable insurance. True enough.

But instead of fingering the real culprits – insurance companies – doctors and the **American Medical Association** have joined insurers in blaming injured patients who file supposedly “frivolous” lawsuits and jurors they say are eager to make huge malpractice awards.

Their solution – limiting the discretion of jurors by capping jury awards, so-called “tort reform” – is as fraudulent as the manufactured crisis it's supposed to address.

Donald J. Zuk, CEO of a major malpractice insurer, has said as much. Commenting on rising malpractice premiums, Zuk told *The Wall Street Journal* last year, “I don't like to hear insurance-company executives say it's the tort system – it's self-inflicted.”

In fact, when malpractice premiums spiked in the 1980s, many states capped jury awards. That hasn't held rates down. (California passed *insurance* reform in 1988 – *that* worked.) And if discouraging “frivolous” lawsuits is the goal, why cap damages in *successful* suits, those that, by definition, are *not* frivolous?

The current insurance “crisis” is, in fact, just the latest push in a decades-long effort to pass “tort reform” – a campaign by corporations, doctors and insurance companies to insulate themselves from legal accountability by tying jurors hands.

“The people pushing tort reform have used campaign contributions and lobbying to compromise elected officials and regulators,” says one consumer advocate. **“Juries are the last line of protection for consumers. Jurors don't take campaign contributions. They can't be lobbied. What tort reformers fear most is 12 people they can't control.”**

This week at TomPaine.com – TARGET: Juries Featuring “*Been There, Done That*” by Steven Rosenfeld... “*The Golden State Solution*” by Harvey Rosenfeld... and a Q&A with Joanne Doroshow, *Center for Justice and Democracy* (www.CenterJD.org).