

Kerry H. Collins & Associates, P.C.

A t t o r n e y s A t L a w

"You will meet with your attorney about your case—I guarantee it."

SPRING 2003

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OUR PERSONAL INJURY PRACTICE INCLUDES: NURSING HOME CASES

- Abuse
- Neglect
- Malpractice

WE ALSO HANDLE:

- Medical malpractice
- Auto accidents
- Slip and fall
- Animal bites
- Construction injuries
- All serious injuries

Please call us with all your legal questions. No fee unless we negotiate a settlement or win a judgment in court on your behalf.

The medical malpractice insurance situation *What's it really all about?*

Newspaper front pages and television news reports create an impression that outrageously high jury awards are the reason for the huge increases in doctors' medical malpractice insurance. As with some media reports, digging a little deeper for information unearths facts and details that tell a very different story.

Here are several aspects of the so-called medical malpractice insurance crisis in which the media have been sketchy in their reporting.

■ An underreported factor contributing to medical malpractice insurance premium increases is the poor investment decisions that insurance industry executives have made in the past 10 to 15 years. They have to raise premiums to maintain profit margins.

■ Medical malpractice insurers waged intense price-dropping wars with competitors over the past decade by artificially lowering premium prices and undercharging physicians for policies. However, when insurers got caught short by Wall Street's performance slump in the late 1990s, they decided to levy large premium increases.

■ Although medical care costs saw a dramatic 75 percent increase from 1988 to 1999, medical malpractice premiums increased by less than six percent in the same period.

■ Medical malpractice insurance premiums account for only 3.5 percent of the average physician's annual revenue.

■ When legislators impose medical malpractice case damages limits, insurance companies do not reduce premium rates for physicians' policies. In states with damage caps, the average internal medicine physician's insurance premium is \$7,887 per year. In states without caps, the average internal medicine physician's insurance premium is \$7,715.

■ Medical malpractice awards are not exploding. The current average insurance payout is about \$30,000, which hasn't changed in more than a decade.

■ According to the *Philadelphia Inquirer*, doctors are not fleeing the profession as some other media have reported.

■ A small number of doctors are responsible for most malpractice cases—in Kentucky, 16 percent of the state's physicians accounted for 100 percent of the medical errors leading to medical malpractice cases in the past decade.

■ Very, very few doctors are ever disciplined by state medical societies for their errors.



Proud Trial Lawyer—because fighting giants never goes out of style.



TERRORISM... ...and its remedies

Americans have been the victims of domestic terror for the past several years.

1993—6 died in the first terror attack on the World Trade Center.

1995—167 people died from a massive truck-bomb explosion at the Alfred P. Murrah Federal Building in Oklahoma City.

1995-6—24 servicemen were killed in attacks in Saudi Arabia.

1998—228 people were killed in attacks on two east African U.S. embassies.

2000—17 U.S. sailors perished in an attack on the *U.S.S. Cole* in Yemen.

2001—A combined 3,042 people were killed at the World Trade Center, the Pentagon, and on an airliner.

Trial lawyers respond

Following the 9/11 tragedy, members of the Association of Trial Lawyers of America volunteered to provide free legal services to any family wishing to pursue justice through its Trial Lawyers Care program, a fund established by humanitarian legislation.

A recent award in a pending case

As our nation continues to address the issues of international and domestic terrorism, American victims of terrorism are obtaining satisfaction through the American justice system. In 1985, hijackers from the Iran-sponsored Hamas and Hezbollah terrorist organizations beat, tortured, and held six U.S. Navy divers hostage in Beirut for 17 days. Hijackers murdered one diver.

The servicemen and their families sued the Islamic Republic of Iran for damages based on its support of the terrorists. In April 2002, a federal trial court awarded the plaintiffs \$300 million in punitive damages and \$7.8 million in compensatory damages against Iran and its Ministry of Information and Security.

Our goal

An effective lawyer-client relationship

In everything we do, for each client, we strive to achieve the kind of relationship that will be mutually beneficial. What are its hallmarks?

Courtesy—We should both expect to always be treated with the consideration of good manners between partners.

Faith in judgment—From working together, we must come to mutually value a client's understanding of issues in the case and a lawyer's legal experience necessary to resolve them.

Involvement—To succeed, we must agree to cooperate to become full stakeholders in the legal processes and outcomes.

Respect—We both endeavor to do our best to appreciate each other's experience and skills, even when information or news that is shared is not what either wants to hear.

Support—The client and the attorney have a joint responsibility to make every effort to further the successful completion of the case.

Trust—Our goal is to establish and maintain a common confidence in each other's knowledge, ways of thinking, and sense of urgency about the matters at hand.



FOR YOUR SAFETY

Recalled product roundup

Here are some recently recalled products you may have in your home or at work.

- ✓ **Black & Decker** recalled 140,000 cordless electric lawn mowers in which an electrical component can overheat and catch fire.
- ✓ **Lawn-Boy, Inc.**, called back 36,000 Lawn-Boy walk-behind mowers. Mower mulch plates for Lawn-Boy can crack or break if struck by high-speed objects and injure operators or others.
- ✓ **Motorola, Inc.**, Broadband Communications Sector recalled one million DCT2000 digital cable boxes installed in 2002. Power cord pins at the back of the box may break, causing electrical shock to consumers.
- ✓ **Invensys Building Systems** wants 560,000 Siebe actuators returned for testing and/or replacement. The actuators control fire and smoke dampers in heating, ventilation, and air conditioning systems. The actuator spring mechanism can jam, prevent dampers from closing, and permit smoke, fire, and fumes to spread through a building's ventilation system.
- ✓ **Leifheit International USA, Inc.**, recalled 31,000 apple slicers/corers whose blades can separate and cut users' hands and fingers.
- ✓ **Fluke Corporation** has recalled 40,000 digital multimeters, which measure voltage, resistance, and current. Recalled units can take longer than normal to display AC voltages above 500 volts. Users who misinterpret the delayed reading for no voltage are at risk of thermal burns, shock, or electrocution.

Seniors and falls

One of the most common, and serious, problems facing retirement facility or nursing home residents is the risk of falls. Anyone who is responsible for a senior parent or elderly relative in a residence can collaborate with management and staff to reduce the potential for falls by their loved ones. They can...

- check to see that corridor and room lighting is sufficiently bright.
- periodically inspect and eliminate hazardous obstacles such as rugs, lamp cords, or other objects.
- schedule annual eye-health and vision-quality checkups.
- promote participation in exercise and other programs to maintain physical strength and improve balance.
- request that aides monitor residents after administering medications that may cause dizziness or confusion.
- encourage the elderly to use canes, walkers, or other mobility devices when needed.
- ask caregivers about the use of bed rails or restraints if unsteadiness or falling from bed occurs.

A resident's fall

After his mother suffered a fatal head injury after falling from her bed, a son won a jury verdict on her behalf in a lawsuit. He alleged that the nursing home failed to provide safe care and services because it did not use appropriate bed-safety restraints, even though the staff was aware of her known tendency to fall out of bed.



LEGAL LEXICON

Many clients find legal terms puzzling. From time to time, we'll offer some easy-to-understand definitions to help clear things up. This time, we'll address the meanings of several important legal terms related to employees and the workplace.

Affirmative action

State and federal regulations and policies intended to compensate members of minorities for unfair discriminatory practices that existed in the past.

At-will employment

Two parts: An employer's right to terminate workers without providing any reason; an employee's right to quit a job without explanation.

Disability benefits

Social Security Administration funds available to employees under age 65 who qualify under medical regulations describing an inability to work due to accident or injury.

ERISA

The Employee Retirement Income Security Act of 1974 is a federal law that requires employers to furnish employees with clear and comprehensive information about their pension rights. Court interpretation of ERISA has made HMOs and other managed-care insurers immune from lawsuits for injuries they cause by delaying or denying appropriate care. A federal Patients' Bill of Rights that would allow patients to hold HMOs accountable in court has been under consideration for several years.

Sexual harassment

Unwelcome sexual conduct on the job that makes workers feel that they are in an intimidating, hostile, or offensive workplace.

Insurance claims

If you meet with a claims adjuster...

Part of the follow-up on a claim for a business casualty, home damage, or an auto accident might be an invitation to the insured to meet with a claims adjuster.

Any such meeting is actually part of negotiating with the insurer, and it is probably best to seek legal counsel prior to a meeting. If significant liability issues are at stake, a lawyer should attend every meeting. However, if the parties elect to meet, experts suggest the following guidelines.

- Be pleasant, firm, and serious.
- Don't admit responsibility.
- Meet at a place and time convenient to yourself.
- Have a witness present.
- Tape the talk or take very good notes.
- Avoid expressing interest in settling quickly.
- Don't lower expectations, and be prepared to negotiate by asking for concessions from the other side.
- Have all agreements reviewed by an attorney.

Claims against Allstate

One insurance company, Allstate, actively discourages those making claims against its insureds from hiring lawyers. Its "Do I Need An Attorney?" campaign has been found in violation of various states' laws.

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The information included in this newsletter is not intended as a substitute for consultation with an attorney. Specific conditions always require consultation with appropriate legal professionals.

Board certification

Board certification is important. Certification in a particular area of specialty by our state's bar association is the ultimate stamp of competency, qualifications, and professionalism.

Certification is granted only after years of trial practice, recommendations from trial judges and fellow attorneys, successful completion of examinations, and demonstration of professionalism.

Mr. Kerry H. Collins is a Board-Certified Personal Injury Law Specialist. He has had tremendous success in recovering money damages for personal injuries caused by the negligence of others. Mr. Collins' firm handles injury claims caused by:

- Medical malpractice
- Nursing home neglect and abuse
- Automobile, motorcycle, and all vehicular accidents
- Construction accidents
- Slip and fall
- Dangerous products and toys
- Swimming and diving accidents
- Shootings and inadequate security claims
- All types of serious personal injury and death claims.

Insurance denials

Although it is rare for businesses to make major claims against their commercial and casualty insurance policies, owners nonetheless understand the safety-net value of pure insurance protection.

Should large or even catastrophic losses occur, however, most businesses enjoy prompt review and fair payment from their insurers. The insurers' goal is to keep their commercial enterprise clients viable and successful.

When insurers refuse to pay fair commercial claims, business owners can obtain recourse through our justice system.

Sour grapes

A family co-owning a winery with a partner—who misrepresented the varieties of grapes grown—was sued for falsification. Their insurance agent assured them that if they provided proof that they had done nothing wrong, their insurance would cover losses and costs. Although they submitted documentation, their insurer denied coverage. They sued, alleging false promise and emotional distress. A jury granted them a significant award and punitive damages.



Safe workplaces

Employers are responsible for maintaining safe workplaces. Most do so to attract and retain good employees and to maintain high productivity.

Safety practices can take many forms, such as training to lift heavy objects correctly or pour and mix volatile products safely. Safety measures also include eliminating trip-and-fall hazards and improving equipment safety with guard fences and automatic kill switches.

Employers can redesign jobs, work stations, and facility areas to lessen repetitive motion injuries, decrease stress, and reduce noise levels.

Programs to identify and reduce violence in the workplace have been put into effect in many companies.

Bank robbery

A teller sustained injuries during a bank robbery shooting that left her a quadriplegic with more than \$10 million in medical expenses. Her attorney earned her a jury award verdict by demonstrating that the bank's security firm misrepresented the bank's safety, maintained an inadequate security system, and failed to install panic buttons for tellers.