

Comprehensive Solution Needed to Eliminate Lawsuit-Driven Medicine Costs

By Richard L Jackson

As the leader of a company that serves over two million patients across America, I know firsthand about the challenges many patients face in America's healthcare system. Numerous patients have told me they are concerned about costs that are too high and access that is too limited. I share their concerns.

That's why I'm dismayed by our recent, landmark Jackson Healthcare/Gallup study and our own Jackson Healthcare survey of physicians that found 26-34% of healthcare spending is considered medically unnecessary.

Up to a third of our healthcare spending... wasted. It adds up to between \$650- \$850 billion **every year**. Rather than returning those billions to patients and taxpayers, our broken healthcare system keeps on wasting valuable dollars on treatments patients don't need or want.

According to the studies, the main culprit of these runaway costs is America's culture of lawsuit abuse. Our lawsuit-driven healthcare system allows personal injury lawyers to dictate how doctors treat patients. That's completely backwards.

On behalf of the millions of patients my company serves, I say enough is enough. This cycle of waste needs to stop. We need real, comprehensive reforms that will end the lawsuit abuse lottery and remove the barriers that contaminate the physician-patient relationship.

Like so many other healthcare providers, I joined this profession because I believe in the importance of delivering quality care through the fundamental physician-patient relationship. Everything we do as healthcare providers should protect and enhance that relationship. At a minimum, as all doctors are called to do, we should "do no harm." No one should come between a physician and a patient.

Unfortunately, today's healthcare system puts personal injury lawyers squarely between physicians and patients. It forces too many physicians to treat people like potential plaintiffs, not real patients. Forever in fear of a frivolous lawsuit, doctors are forced to order extra tests and treatments. In addition to putting patients through more discomfort than they need, these lawsuit-driven decisions drive up the costs for all patients, and indeed taxpayers.

But it's not enough to talk about the problem. We need real, lasting solutions. Today, physicians are personally liable for their medical decisions, which may surprise you. Almost all of the other major countries prohibit this, but not America. Here, physicians are NOT legally protected through their business, employer or insurance. Their career, reputation and savings are at risk every day. Considering the prevalence of baseless lawsuits, it's no surprise that they order extra tests.

Traditional tort reform, such as damage caps, will not eliminate defensive medicine. In fact, independent reports show that in "traditional tort reform" states, physicians practice the same amount of lawsuit-driven medicine. While damage caps help more than they hurt, they simply are not a comprehensive solution to the skyrocketing costs that result from defensive medicine.

Solution

To finally root out the significant waste in our nation's healthcare system, we need a more aggressive approach. We should begin by incorporating successful reforms that have worked in other areas. For instance, workers' compensation reform has drastically lowered costs and improved the compensation system.

The solution to saving \$650-\$850 billion per year and ENDING lawsuit-driven medicine requires three steps that are proven to have worked, like in worker's compensation:

1. Eliminate personal financial liability for physicians' unintended errors, so they can treat patients based on what's needed, not out of fear of a lawsuit.
2. Create independent, expert medical review boards to review claims and determine if negligent treatment has been provided to the patient.

3. Establish separate boards to award consistent, fair compensation to wrongfully injured patients.

Patient Benefits

- **Patient Compensation Increases** 1) The awards would no longer be split between patients, insurers, and personal injury lawyers. Today, two thirds of the current malpractice expenses do not go to the injured patient. 2) Physicians will be more willing to admit mistakes which will produce more compensation for the patients, and 3) Some patients are awarded too little because their lawyers settle cases too quickly because they cannot afford the cost of a long litigation.
- **Quality of Care Increases** As physicians practice in a secure environment, they are able to share best practices and lessons learned without being attacked. We would free physicians to explore and adopt new treatments and technologies. Today, innovation must be weighed against the personal risks involved.
- **Physician Accountability Increases** Physicians who do not follow standards of care and are deemed incompetent by their peers will lose their ability to practice medicine. That is sufficient incentive to keep physicians focused on quality of care.

Conclusion

I believe this new approach would promote physician accountability and establish medical facts – not lawsuits – as the basis of our nation’s approach to healthcare. This approach will end the lawsuit lottery and outlandish judgments that go beyond reason and drive up costs for everyone.

The country is incurring these excessive healthcare costs with no patient benefit. Why not create a radical change to the system that significantly reduces costs and provides increased amounts for patient compensation?”

Imagine how open and cooperative our physician/patient relationships could be if physicians were free to pursue the best practices in medicine, while the rights of patients were protected.

Just as important, these reforms would lower the healthcare costs we all pay. Imagine how \$6.5-\$8.5 trillion in savings over the next ten years could be used to cover the uninsured. We don’t have to wait 10 years to “bend the cost curve.” We can save \$650-850 billion a year NOW!