

THIS AIN'T TEXAS!

Here we are in the middle of this cauldron we call a liability crisis and it remains hard to see our way clear. Anyone with any knowledge of the issue agrees that it requires immediate and long-term solutions. Your medical leaders are hard at work meeting with the Governor, legislators and legal experts, continuously searching for a way out of this mess.

Just recently, the Tucson Orthopedic Society invited Dr. David Teuscher from Texas to Arizona in order to outline how they were able to pass the required constitutional amendment in his state which limits non-economic damages. We have looked to the Texas Medical Association as our template for reform since we have the same constitutional barrier here. He reported that with an intense effort by that association (of which nearly all Texas physicians belong), assisted by major outside financial help, a sympathetic Governor and Lt. Governor, a supportive legislature, and direct involvement by President Bush, they netted the ballot victory by merely 33,000 votes, out of more than 1.5 million cast. Since we in Arizona do not have the Governor, the funds, or President Bush campaigning here in the state for reform, it is easy to conclude that accomplishing our mission by constitutional ballot will be massively difficult here.

Although considered a friend of the trial bar, the Governor is sympathetic to the problem. No one wants to be the captain of the Titanic when it hits the iceberg. You are well aware how deep in the soup we are and how big those icebergs remain. Hopefully, all these minds working together can point towards the way out.

For me, the issue has become suddenly quite clear with the naming of Senator John Edwards as the Vice Presidential candidate for the Democratic Party. Senator Edwards is the darling of the plaintiff bar and probably can take some personal credit for the liability crisis in North Carolina. His suit against the attending obstetrician of a North Carolina hospital, which claimed that cerebral palsy in a newborn was the result of a delay in doing a c-section, resulted in a six and one half million dollar judgment. He subsequently filed more than 20 similar suits against doctors and hospitals in deliveries gone wrong, winning verdicts and settlements of more than 60 million dollars, typically keeping about one third as his fee.

Other similar suits, including a Long Island jury award of 112 million dollars, are resulting in changes in the way doctors deliver babies, often seeing a minor anomaly on a fetal heart monitor as justification for immediate cesarean. Such drastic measures have not altered the rate of cerebral palsy, which in most cases is due to a fetal brain injury long before labor begins, and I suspect Senator Edwards knows this.

Never has there been a clearer choice between the Kerry-Edwards ticket and that of President Bush and Vice President Cheney, who have repeatedly urged and attempted medical liability insurance reform. The trial lawyers will spare no expense to get their men elected so we, in turn, need to respond. If you never act again, act today and speak with your voices and your checkbooks. Send a check today to the political party of your choice and make a stand!

See you next month!

Bryan R. Updegraff, M.D.
President