

# THE OKLAHOMAN

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## Legal liposuction: Malpractice system needs surgery

### Editorial

ON the same day Oklahoma was again mentioned in a list of states with unfavorable legal climates, a conservative group urged adoption of a medical malpractice system that removes lawyers from the process.

Removing lawyers from anything in which they're entrenched is putting a match to a flammable pile of resistance. Lawyers will fight any effort to reduce their income. This is one reason Oklahoma continues to make the American Tort Reform Association's "Judicial Hellhole" list.

The **National Center for Policy Analysis** recommends a malpractice system that compensates patients for unexpected injuries or deaths regardless of fault. The

current system, says NCPA policy analyst Pam Villarreal, is one "of lawyers, by lawyers and for lawyers."

To the argument that a lawyer-less, no-fault system would reduce settlements in negligence cases, we would counter that settlements are already being reduced dramatically by legal fees.

Villarreal notes that fewer than 2 percent of patients (or survivors) who are victims of negligence ever file a malpractice lawsuit, and victims get less than half of every dollar recovered through settlements or verdicts. Who gets the bulk of settlements and jury awards? The legal system, primarily lawyers who bring the cases and those who defend them.

One reason more such claims aren't pursued is that lawyers won't take cases unless they're convinced they can make a lot of money. The proposed system would excise that determination with a voluntary contract plan that would set in advance an amount of compensation from doctor to patient (or survivors) in the event of an unexpected death or disability.

The practical effect is to replace medical malpractice insurance with a type of life insurance on all patients. This won't sit well with lawyers, but we all pay for the fat in the current system — a cost placed by one source at \$2,000 per year per household in America. Surely there's a better way.