

# THE MEDICAL MALPRACTICE MYTH By Tom Baker

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## **About Tom Baker**

Tom Baker is the Director of the Insurance Law Center at the University of Connecticut Law School. Baker, widely recognized as a leading expert on insurance law, is the author of three books and numerous journal articles on the subject. Baker received his B.A. and J.D. from Harvard University, magna cum laude. In 2000, Baker was elected to American Law Institute.

## **Praise For The Medical Malpractice Myth (U. of Chicago Press, 2005)**

- *JAMA* - “Baker deftly counters the ‘malpractice myth.’ It will be difficult for anyone who reads the book to join uncritically the tort reformers’ parade.”
- *Washington Monthly* - “Baker’s approach is both comprehensive and heavily evidence based, relying on peer-reviewed research and exhaustive studies. There are no polemics here, just a dose of facts and common sense.”

## **Brief Summary of Baker’s Key Findings:**

### **Medical Malpractice Is An Epidemic**

- Medical errors kill up to 100,000 Americans each year. (p. 9)
- 1 in every 100 hospitalized patients becomes a victim of negligent care. (p. 29)

### **Insurance Costs Are Low**

- Medical malpractice premiums account for less than 1 percent of all health care spending. (p. 9)
- The average physician paid less than \$12,000 for malpractice insurance in 2003. (p. 66)

### **Insurance Rate Changes Are Not Related To Litigation**

- Medical malpractice insurance premiums rise-and-fall because of the “boom-and-bust” nature of the insurance underwriting cycle. (p. 51)
- The tort system has “little or nothing to due” with fluctuations in insurance premiums. (p. 45)

### **Tort Reform Hurts Patient Safety**

- “All the research that has been done so far points in the same direction: tort reform does not improve health-care outcomes” (p. 148)
- “Research suggests that at least some kinds of tort reforms might have a detrimental effect on health.” (p. 148)

### **Doctors Are Not Fleeing**

- There are more doctors per capita than ever before. (p. 143-144)
- “There are isolated access [to health care] problems, but they do not really have anything to do with malpractice lawsuits.” (p. 155)

### **Malpractice Suits Are Rare; Usually Meritorious**

- Less than three percent of malpractice victims file suit. (p. 63)
- The rate of malpractice suits has declined over the past 15 years. (p. 37)
- “Research clearly rejects the claim that most medical malpractice lawsuits are frivolous.” (p. 86)

### **Tort Driven Defensive Medicine Is A Myth**

- “Defensive medicine is a trumped up charge.” (p. 155)
- “The overall impact of this defensive medicine on health-care costs is not very large. (p. 134)