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Many scientific breakthroughs occur when an investigator radically reframes a problem, and therefore the proposed hypothesis and intervention.

Around the country, we have a rolling "medical liability" crisis. But it is not clear that anyone is rigorously working to understand or solve the real problem, including, as a group, those institutions that educate our physicians and advance the science of medicine.

There is increasing consensus that the medical liability system fails patients, doctors, and the public. Studies show little correlation between the severity of medical errors, who sues, and the ultimate payouts to victims. The punitive nature of the system encourages a well-documented code of silence among practitioners - which means errors are not learned from, and they occur again and again.

Unfortunately, little attention is currently being paid to this issue at the state level, in Washington, by organized medicine, or in any other public arena. Major proposals are either Band-Aids, such as Pennsylvania's commitment of public funds to help physicians pay their malpractice premiums, or so controversial, such as caps on damage awards, that they seem unlikely to generate anything more than continuing political conflict. The more thoughtful approaches are often presented in mystifying complexity, or treated as marginal experiments by policymakers.

It is time to rethink the issue and the solution. What is the most important mission of the medical liability system? We think the mission should be to help keep patients safe. That means helping to ensure that each medical error or "something gone wrong" is raised immediately, so that others else can learn from it, avoid repeating it, create innovative improvements, and share what they learn. That is how aviation and nuclear power became safe industries and how Alcoa became the safest corporate workplace in the world.

It also turns out that this is what patients and families want. More



By Paul O'Neill, former U.S. secretary of the Treasury, currently CEO Pittsburgh Regional Healthcare Initiative (PRHI), and Ken Segel, executive director, PRHI



and more evidence indicates that patients who have experienced a medical error do not sue if they feel they have been told the truth about the situation, and if they believe a genuine effort is being made to make sure that the same problem will not happen again.

So if anyone wants to solve the problem, here is a radical solution. If a medical error is reported to the patient, the family, and an appropriate non-punitive state or federal reporting system within a day of discovery, and a credible corrective action plan is devised and implemented within a week, we would limit recoverable damages to a patient's economic losses. (In cases where serious damages have occurred with little economic impact on a patient, such as a Pennsylvania case where a wrong breast was removed by a surgeon, pre-defined but reasonable damage amounts could be awarded.) But if an error is not reported or acted upon within this time frame, then treble or quadruple damages would be allowed. This would create a tremendous positive incentive to do the right thing for patients, clinicians, and the public... and a disincentive to do anything less.

"The punitive nature of the [medical liability] system encourages a well-documented code of silence among practitioners - which means errors are not learned from and they occur again and again."

Unfortunately, the medical profession itself has focused too little attention on the problems within our medical liability system. In a recent article in the *Annals of Internal Medicine*, Steven Schoenbaum, M.D., argues persuasively that physicians need to spend less energy arguing for tort reform and more time working to dramatically reduce the occurrence of errors, following very successful models, such as anesthesiology.

The nation's academic medicine community can and should drive this shift in attitude back toward the underlying values of medicine and the basis of sound science - solving a problem at its root. On this and so many other issues of ensuring that our physicians and other healthcare practitioners can see and act "through the patients' eyes," the country is looking to you for leadership.

