Liability: Pass cost to the public

TO THE EDITOR:

I understand and appreciate Dr. Barbieri's points in "What's really at stake in the jackpot liability game?" (August 2003).

One factor that's often neglected in analyses of this problem is that medical liability insurance is simply a cost of doing business, like any other item of overhead. In any other industry in America, increased overhead translates into increased costs for the goods or services in question. The only reason why doctors suddenly "cannot afford" liability insurance is that government and insurance industry price-fixing does not allow them to pass along their increased costs.

If Americans want to play "the jackpot liability game," they should be allowed to do so. But its costs should be borne by the public, not physicians.

TIM GORSKI, MD
ARLINGTON, TX

DR. BARBIERI RESPONDS: I agree with Dr. Gorski that the damage of the current liability crisis would be tempered if physicians could pass the costs of liability premiums directly to patients and insurers. However, I disagree that the escalation in medical liability insurance premiums is "like any other item of overhead."

Fundamentally, physicians have entered into a "social contract" with the larger society, as we wrote in an editorial, "Physician walkouts and the fraying of the social contract," (OBG MANAGEMENT, March 2003). In return for a decade of sacrifice and intense training, followed by a lifelong commitment to the health of their patients, physicians expect society to treat them fairly, respect their autonomy, and trust their professionalism. The liability insurance crisis threatens to disrupt the standing social contract, and place all physicians in a defensive position.

This is a topsy-turvy world in which physicians base practice decisions on the beliefs of plaintiff attorneys rather than their convictions of what constitutes the best medical care. Few other "items of overhead" bring such a dysfunctional response to the practice of medicine.

The walkout that worked

TO THE EDITOR:

Several US senators, including at least 1 from Dr. Barbieri's state, are in the pockets of the trial attorney lobby. You might review the history of medical malpractice legislation in California some years ago as a way of getting legislative relief:

The anesthesiologists of San Francisco, Alameda, and San Mateo counties went on strike on May 1, 1975—no anesthesia was provided except for dire emergencies. After almost a month, Hospital Labor Union #250 told Governor Jerry Brown and Speaker of the Assembly Leo McCarthy that their members were out of work—laid off due to markedly decreased in-patient services. Both officials (lawyers by profession) then sponsored a bill, AB1xx, written by H. Hazzard, Esq., senior attorney for the California Medical Association, which ultimately passed in a special session of the legislature. For over 20 years trial attorneys have tried to get the courts and state legislature to overturn the law—without success.

If I were still in practice, I would not do obstetrics; if I were thinking of training after medical school, I would not choose obstetrics and gynecology. I loved my Ob/Gyn practice,

but the trial lawyers have changed our lives in the specialty. My daughter is an attorney.

WILLIAM T. BENDER, MD
MILL VALLEY, CALIF

DR. BARBIERI RESPONDS: I appreciate Dr. Bender's insight into the events that shaped the successful passage of professional liability reform in California. Work stoppages may be necessary to force our legislators to action. Dr. Bender points out that he is glad his daughter is a lawyer and not a physician. Hopefully we can improve the practice environment so that his grandchildren could choose to pursue a rewarding career in medicine.

Cowardice and corruption

TO THE EDITOR:

Dr. Barbieri makes a clear and compelling case on the issue of federal medical liability reform. The Democratic party's opposition to restructuring this corrupt system—in which trial lawyers make too much money and patients get little benefit overall—constitutes true political corruption.

It is sad to think how many Americans would benefit by reform of this system and how much harm the Democratic party is causing. Think of how many uninsured Americans could have coverage if $100 billion per year was not wasted on this terrible system. Politicians cloak themselves in clichés about helping patients, but all they want is to get reelected with the money wealthy trial lawyers send them. The fact that the media refuse to challenge lawyers on this subject shows how intimidated and cowardly they really are. I appreciate your courage for speaking out.

STEVE WASZAK, MD
SEATTLE, WASH

DR. BARBIERI RESPONDS: I agree with Dr. Waszak that the massive support the trial lawyers offer the Democratic party is a major factor in this debate, and played a large role in the Senate's filibuster of liability reform (see our editorial, "Solving the medical liability riddle," December 2002). In the fall session Dr. Bill Frist plans to reintroduce liability reform legislation that focuses on the crisis facing obstetricians and nurse-midwives.

Failure-free emergency contraception?

TO THE EDITOR:

In reference to "New options in emergency contraception: A WHO study," by Philip D. Darney, MD (July 2003): The method of postcoital contraception described in this study (a single 1.5-mg dose of levonorgestrel) has been shown to be only about 75% effective.[1,2] In a 1973 article, Blye reported using a 5-day regimen with essentially no failures.[3]

When diethylstilbestrol was taken off the market, Ovral (norgestrel/ethinyl estradiol) twice a day was found to be just as effective.[4,5] There were reports of nausea, but clearly this was easier to treat than unwanted pregnancy.

With this data, I strongly recommend the 5-day regimen become standard of practice.

R.A. LANE, MD
SOUTH PADRE ISLAND, TEXAS

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3. Blye RP. The use of estrogens as postcoital contraceptive agents. Clinical effectiveness and potential mode of action. *Am J Obstet Gynecol*. 1973;116:1044-1050.
4. Kubba AA. Hormonal postcoital contraception. *Eur J Contracept Reprod Health Care*. June 1997;2:101-104.
5. Creinin MD. A reassessment of efficacy of the Yuzpe regimen of emergency contraception. *Hum Reprod*. 1997;12:496-498.

DR. DARNEY RESPONDS: The effectiveness of emergency contraception is controversial. Reports on various regimens and different evaluation methods show a wide range of efficacy—from a slight decrease in expected pregnancy rates to 100% efficacy, as Dr. Lane notes. In all of them, compliance is a critical variable; thus, a simple regimen like the one supported by the World Health Organization data is likely to be more effective. ■