

## **The poor state of health care quality in the U.S.: is malpractice liability part of the problem or part of the solution?**

December 6, 2011

Hyman DA, Silver C. The poor state of health care quality in the U.S.: is malpractice liability part of the problem or part of the solution? *Cornell Law Rev.* 2005;90(4):893-993.

<https://psnet.ahrq.gov/issue/poor-state-health-care-quality-us-malpractice-liability-part-problem-or-part-solution>

---

This review discusses an ongoing and controversial debate in patient safety regarding the impact of current litigation practices. The authors provide necessary context to both sides of the debate, sharing what they describe as the conventional wisdom of malpractice exposure impeding high-quality care and how existing evidence indicates otherwise. Building on research such as the [Harvard Medical Practice study](#), they argue that malpractice exposure likely decreases the risk of harm to patients and that the real debate should focus on poorly aligned incentives to providers who fail to promote safety and quality in patient care. The comprehensive discussion concludes with recommendations for making the tort system a more effective method of fostering quality improvement and sharing the goals set by patient safety agendas.