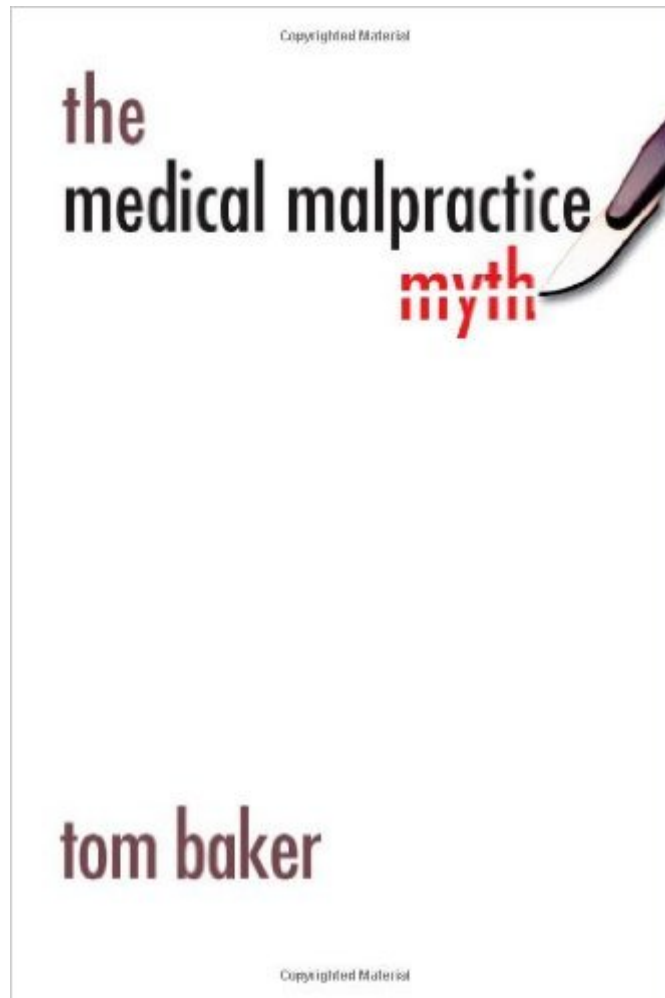


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# The Medical Malpractice Myth



## Synopsis

American health care is in crisis because of exploding medical malpractice litigation. Insurance premiums for doctors and malpractice lawsuits are skyrocketing, rendering doctors both afraid and unable to afford to practice medicine. Undeserving victims sue at the drop of a hat, egged on by greedy lawyers, and receive eye-popping awards that insurance companies, hospitals, and doctors themselves struggle to pay. The plaintiffs and lawyers always win; doctors, and the nonlitigious, always lose; and affordable health care is the real victim. This, according to Tom Baker, is the myth of medical malpractice, and as a reality check he offers *The Medical Malpractice Myth*, a stunning dismantling of this familiar, but inaccurate, picture of the health care industry. Are there too many medical malpractice suits? No, according to Baker; there is actually too much medical malpractice, with only a fraction of the cases ever seeing the inside of a courtroom. Is too much litigation to blame for the malpractice insurance crisis? No, for that we can look to financial trends and competitive behavior in the insurance industry. Point by point, Baker—a leading authority on insurance and law—pulls together the research that demolishes the myths that have taken hold and suggests a series of legal reforms that would help doctors manage malpractice insurance while also improving patient safety and medical accountability. *The Medical Malpractice Myth* is a book aimed squarely at general readers but with radical conclusions that speak to the highest level of domestic policymaking.

## Book Information

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## Customer Reviews

If Tom Baker came into my Emergency Department as a patient, he would almost certainly get

MORE care (studies, procedures, consultations), but there is a very good chance that it would be worse for his health. However it would not be from malicious or punitive intent. Like nearly all outsiders, and unfortunately most physicians, Baker underestimates the impact of doing more medicine in order to be more careful. A fantastic literature is now emerging exploring the problem of overzealous medical care. See Shannon Brownlee's "Overtreated," Gilbert Welch's "Overdiagnosed," or the really superb "Hippocrates Shadow" by David Newman. It is the effect of the confluence of money, technology, consumers' expectation of immediate and complete satisfaction, and physicians' overconfidence in the salvific power of our craft. The problem is that despite the enormous contributions of technology, medical diagnosis is not nearly accurate enough, and as a result there will be increased cost in terms of risk (I'm not talking about money here) to pursuing earlier diagnosis. This has to do with the basic statistical notion of the FALSE POSITIVE. When diagnostic tests are less than 100% accurate then they will occasionally yield false results - this is obvious. What is not obvious is the paradoxical effect of applying imperfect tests to low-risk populations. When I have a test that is "only" 99% accurate, and I apply it to a patient group that has a 1% chance of having the condition in question, fully ONE HALF of those who have a positive test result will be FALSE POSITIVE. If the previous factual statistical statement doesn't cause you some psychic distress, then keep reading it until you begin to understand the implications.

This is a copy of my review from the Insurance Scrawl blog, [...] : Nearly 100,000 killed last year, the same rate as in the ongoing, repellent genocide in Darfur. But this figure is the estimate of the number of Americans who die annually due to medical-malpractice errors. That's one of the key points emphasized in the trenchant new book by Professor Tom Baker, *The Medical Malpractice Myth* (2005). Baker's slim, accessible, engaging, and well-written volume argues that the prevailing myths concerning medical malpractice and doctors' liability-insurance premiums are the stuff of urban legend. One of the key contributions of the book is to assemble in one handy place the current literature about the amount of medical malpractice, the number of med-mal claims, the settlement/judgment costs and transaction costs of these cases, insurance premiums, and ups and downs in insurance markets. Baker argues convincingly that there is an epidemic of medical practice in the United States, nearly 100,000 preventable deaths annually, with only a fraction of claims being pursued (and most nonmeritorious claims are resolved before trial and often are dropped). The number of deaths annually exceeds automobile-related and workplace-related deaths combined, yet the medical-liability insurance premiums in toto are a small fraction of the premiums collected for auto and worker's comp. Baker approaches his study with an open mind and

transparently - he shows the reader the evidence, the bases for his interpretation of the evidence, and honestly identifies where the data are uncertain, limited or unclear. The book is quite refreshing in this regard, given the jeremiads one usually sees in these discussions.

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