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For Immediate Release
August 21, 2013

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New Consumer Study Debunks Myths About California's Medical Malpractice "Cap" and Access to Patient Care

New York, NY - The Center for Justice & Democracy released a new study today examining years of research showing no correlation whatsoever between where physicians decide to practice and a state's medical malpractice law. The report, *Exposing Medical Myths: "Caps" And Physician Supply*, can be found here along with an Executive Summary:
<http://centerjd.org/content/exposing-medical-myths>

Says study author Joanne Doroshow, Executive Director of the Center for Justice & Democracy, "The suggestion that doctors might leave California or abandon certain specialties if the state's brutal \$250,000 cap on compensation for injured patients were repealed, let alone simply increased for inflation, has absolutely no support in the academic literature, government studies, or the actual experiences of other states."

Explained Doroshow, "Thirty-eight years ago, California enacted one of the harshest laws in the nation limiting the legal rights of California patients. This law applies no matter how much merit a case has, or the extent of misconduct by a hospital, doctor or health care provider. It applies regardless of the severity of someone's injury. Even compensation to catastrophically-injured children is limited by this law. As someone who has studied medical malpractice issues for nearly 30 years, I can say without hesitation that limiting the legal rights of patients in this fashion is not only cruel, but also has absolutely no impact on physician supply or patient access to care."

The CJ&D study comes at a crucial time, as movement builds to repeal or make a simple inflationary adjustment to this \$250,000 cap – worth about \$65,000 in today's dollars. Despite never having once been adjusted for inflation, California's Planned Parenthood recently announced its opposition even to an inflationary adjustment, wrongly claiming this would "result in reduced patient access" to care. "Sadly," said Doroshow, "this particular chapter of Planned Parenthood has been led down a very wrong path by some medical groups. We hope that after reading this report, the group will reconsider its position for the sake of the people we know they care about."

Explained Doroshow, “Non-economic injuries range from mutilation to blindness to loss of a woman’s reproductive ability. Defining these kinds of injuries as worth no more than \$250,000 is not only heartless but goes against our nation’s very definitions of individualized justice, a cornerstone of our democratic system.”

“What’s more,” said Doroshow, “this cap is discriminatory. Limiting non-economic damages results in valuing the destruction of someone’s life based on what that person would have earned in the marketplace but for the injury. The lives of low wage earners, children, seniors, and women who do not work outside the home, are thus deemed worth far less than the life of a corporate executive.”

Moreover, she notes, University of Buffalo Law Professor Lucinda Finley has studied the impact of such caps on women, finding that “certain injuries that happen primarily to women are compensated predominantly or almost exclusively through noneconomic loss damages. These injuries include sexual or reproductive harm, pregnancy loss, and sexual assault injuries.” Also, “[J]uries consistently award women more in noneconomic loss damages than men ... [A]ny cap on noneconomic loss damages will deprive women of a much greater proportion and amount of a jury award than men. Noneconomic loss damage caps therefore amount to a form of discrimination against women and contribute to unequal access to justice or fair compensation for women.”

Continued Doroshow, “We hope Californians reject untrue assertions about patient access to care from medical groups. Such fear-mongering is aimed particularly at women, children, seniors and low-income residents by the very doctors who should be caring for them. California’s cap eviscerates patients’ rights to adequate compensation and should be eliminated.”

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