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at issue: identity theft



Preventable Medical Mistakes – The Third Leading Cause of Death in America

— Dev Sethi

It seems that every time researchers estimate how often a medical mistake contributes to a hospital patient's death, the numbers come out worse. In 1999's famous "To Err Is Human," published by the Institute of Medicine, it was reported that 98,000 people a year die because of mistakes in hospitals. A decade later, in 2010, the Office of Inspector General for the Department of Health and Human Services nearly doubled that – concluding that bad hospital care contributed to the deaths of 180,000 patients in Medicare alone.

Now comes a study recently published in the Journal of Patient Safety that says the numbers may be much higher. – between 210,000 and 400,000 each year. Digest that. Hundreds of thousands of people going to the hospital each year for care who suffer some type of preventable harm that contributes to their death.

The study has been peer reviewed, and prominent patient safety researchers have found the research and methods credible. What that leaves us with then is an estimate placing preventable medical mistakes as the third leading cause of death in America, behind heart disease and cancer. On the high side of the author's estimate, medical mistakes contribute to one-sixth of all deaths that occur in the United States each year.

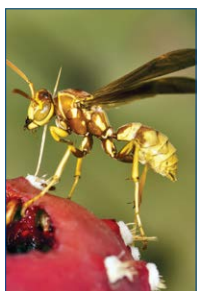
Is the estimate accurate? It is hard to say. No real-time, candid measures are kept, and providers are often reluctant to fully report. While the culture is slowly changing, candid ownership of medical mistakes is still the exception.

These estimates, compiled and extrapolated from "adverse event" and "never event" data – records of

mistakes – has gotten the attention of doctors. Dr. Lucian Leape, a Harvard pediatrician referred to as the "father of patient safety" has confidence in the recent report and suggests that it is time for the medical industry to move forward understanding the scope of the medical mistake problem. He is joined by Johns Hopkins surgeon and author, Marty Mackery. Both have publically expressed concern that medical mistakes remain underreported and under-addressed.

What is the path forward? Many point to general aviation for a solution. There has been a culture shift in aviation. Private pilots are encouraged to report mistakes and close calls. As a result more information about these issues has come to light and pilots across the spectrum can learn from, and avoid, similar problems.

Checklists, also common in aviation, have become more prevalent in medicine. Spurred by the popularity of Atul Gawande's book, [The Checklist Manifesto: How to Get Things Right](#), forms and checklists are becoming regular sights in operating rooms and hospital wards. These force providers to slow down and take deliberate steps, even when doing the most routine tasks, all for the benefit of patient safety.



Your partner making wrong — right again.™

The Importance of UM/UIM Automobile Insurance

— Matt Schmidt

The law in Arizona only requires motorists to carry liability insurance in the amount of \$15,000 per person and \$30,000 per accident. In other words, if you are substantially injured in a car accident due to the fault of someone carrying minimum policy limits, that person's insurance company will only compensate you up to \$15,000 for your injuries. Oftentimes, the person carrying minimum policy limits is also someone with more debt than assets, so going after their personal finances is a dead end--\$15,000 is all that is available.

As we all know, healthcare costs have become extremely expensive. If the injury is serious, \$15,000 is a mere fraction of what the total bill will be. This minimum limit is the lowest in the nation and has not been adjusted in over 40 years.

Nevertheless, it is still the law, and many motorists still take unfair advantage of it, so what can you do to protect yourself and your family? All insurance

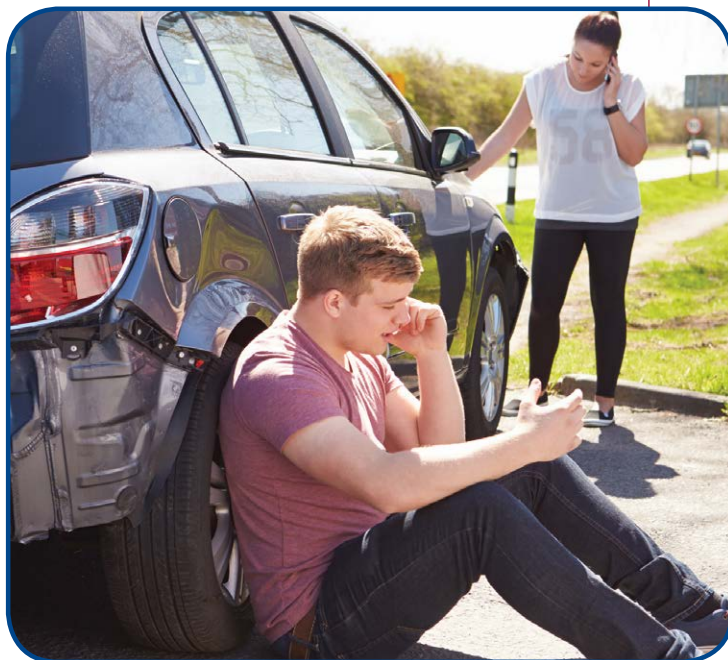
companies in Arizona are required to offer their customers what is called uninsured/underinsured motorist coverage. They must offer it in writing, and it is usually cheap compared to other types of coverage. Uninsured motorist coverage protects you from drivers that have no insurance (they are driving illegally) and underinsured motorist coverage protects you from drivers that do not have enough insurance to cover all of your damages.

Uninsured motorist coverage protects you from drivers that have no insurance

For example, let's say you purchase \$50,000 of uninsured coverage and \$50,000 of underinsured coverage. Let's also say you were involved in an accident that amounted to a total of \$50,000 in injuries. If the driver who hit you is uninsured, your insurer will compensate you \$50,000 since the other driver has no insurance to provide. If the driver who hit you had only \$15,000 of insurance, your insurer will make up the difference between what the other driver has and the full value of your injuries, or in this case, \$35,000 ($\$50,000 - \$15,000 = \$35,000$).

Your insurer, however, will only pay up to the amount of coverage you purchased. So, in the example above, if you are in an accident that amounts to a total of \$100,000 in damages, your insurance will still only pay \$50,000 for an uninsured driver (leaving you with \$50,000 of uncovered damages) and \$50,000 for a driver with only \$15,000 of insurance (leaving you with \$35,000 of uncovered damages). Translation: the more UM/UIM protection you have, the better.

Most UM/UIM policies will not only cover you while driving your own vehicle, but also protect you and your family as drivers and passengers of other vehicles that are involved in accidents with minimal coverage. Other than health insurance, UM/UIM insurance is the most important type of coverage you can have to protect you and your loved ones from another person's negligence.



▶ The 26 Documents You Need Before You Die

— Dev Sethi

Time waits for no man. And death comes for us all. Planning and organization can help ease some of the unnecessary stress and disarray that comes after your passing. Here are 26 documents you need to put together – sooner rather than later. Or else you are setting up your heirs for frustration and potentially financial pain.

▶ Marriage and Divorce:

- 1. Marriage license
- 2. Divorce papers

▶ Life Insurance and Retirement:

- 3. Life insurance policies
- 4. Individual retirement accounts
- 5. 401(K) accounts
- 6. Pension accounts
- 7. Annuity contracts

▶ Health Care:

- 8. Personal and family medical history
- 9. Durable health care power of attorney
- 10. Authorization to release health care information
- 11. Living will
- 12. Do not resuscitate order/election

▶ Bank Accounts:

- 13. List of all bank accounts and account numbers
- 14. List of all user names and passwords
- 15. List of all safe deposit boxes

▶ Proof of Ownership:

- 16. Housing, land and cemetery deeds
- 17. Escrow mortgage accounts
- 18. Proof of loans made and debts owned
- 19. Vehicle titles
- 20. Stock certificates, savings bonds and brokerage accounts
- 21. Partnership and corporate operating agreements
- 22. Tax returns

▶ Social Media and Online Life:

- 23. User names and passwords

▶ The Essentials:

- 24. Will
- 25. Trust documents
- 26. Letter of instruction

ARE YOU SEEING A DOCTOR?

— Jim Campbell

We are seeing more and more people with concerns about the care they received at the hands of a physicians' assistant or nurse practitioner. Physicians' assistants and nurse practitioners are an essential part of today's delivery of health care. In theory, they should handle more of the mundane and routine tasks of healthcare, freeing physicians to handle tasks that are more complicated.

However, nurse practitioners and physicians' assistants are doing more and more complicated decision making. Recently, we have become aware of concerns arising out of nurse practitioners and physicians' assistants evaluating complex orthopedic fractures, patients in coronary distress, and other involved medical issues.

The problem is these health care providers have not received the same depth of training as a physician. Even though they are treating you for the same condition that a doctor has spent many years training for, they may have only received their degree in two years of post-

graduate study. Moreover, they do not have the same rigorous training standards as physicians. As a result, symptoms are overlooked, treatment is neglected, and patient outcomes can suffer.

You have a right to choose your health care provider. If you have concerns that you do not have a routine medical condition, insist you be seen by a well-qualified physician. As with all things involving modern health care, you must be assertive (while being respectful) and advocate for you and your loved one's health.



"Reassignment? We Don't Need No Stinkin' Reassignment"

— Ted Schmidt

Contrary to the belief and practice of most personal injury attorneys in Arizona, the Arizona Court of Appeals has recently held that a worker can sue a third party for on the job injuries more than a year after the injury without first obtaining a reassignment of her injury claim from the workers compensation carrier.

Arizona Revised Statutes 23-1023(B) was amended in 2007. However, it was commonly understood that the amendment only strengthened the right of the workers compensation carrier to recover money it had paid on a workers compensation claim from a negligent third party (someone other than the employer or a co-

employee). Prior to the amendment, the statute clearly provided that if the injured employee did not bring suit within a year the right to bring the suit was automatically assigned to the comp carrier. It was understood that if the employee wanted to bring suit after the year ran she could only do so if she got a reassignment of the claim from the carrier. However, in *Acosta v. Kiewit-Sundt*, 678 Ariz. Adv. Rep. 9 (App. Div. I, February 23, 2014) the court held that the 2007 amendment eliminated the need for a reassignment of the injury claim from the carrier.

In *Acosta*, the employee was injured on a jobsite working for a subcontractor of the defendant general contractor. He received workers compensation benefits for the injury. He approached the

workers comp carrier over a year after the injury and asked for a reassignment of the claim so he could sue the general contractor for his injuries. The carrier refused to give him a reassignment. He sued anyway and the defendant sought a dismissal of the claim due to the lack of a reassignment. The Arizona Court of Appeals held that the amendment to the statute in 2007 eliminated the language "the claim against such other person shall be deemed assigned to the insurance carrier, or to the person liable for the payment thereof" and therefore while the carrier retained the right to seek reimbursement of what it had paid, after the amendment the claim is not "deemed assigned" to the carrier so there is no need to seek a reassignment.

identity theft

Protecting yourself from the Crime of the 21st Century

The horror stories abound. A social security, credit card, or bank account number is stolen with no warning to the unwitting victim until charges have been incurred and accounts drained. Some victims tell the story of ID theft that has haunted them for years. This is a crime so common it is bound to affect us all. What can you do to protect yourself?

Stay Vigilant:

Identity theft is easy and the identity thief need not be sophisticated. Most crooks looking for an easy buck know they can sell your identity even if they don't use it themselves. Housekeepers, lawn or pool maintenance workers, babysitters, exterminators, service technicians, kids' friends - anyone in or around your house who has the opportunity to see your personal information is a potential thief. Keep your personal information hidden in a locked file and block your computer files with clever non-duplicative passwords.

Give Personal Data Only on a "Need to Know" Basis: Don't give personal information such as Social Security or credit card

numbers to others unless you have verified their authority and need for the information. Never give any information to a stranger on the phone who claims you have won a prize or they are working for your bank or the police and need this information to protect you. Proper authorities will never ask for this information on the phone.

Protect your Social Security Number:

Your Social Security number is an important and private key to your credit identity, yet everyone these days seems to ask for it. Don't be complacent in giving it out and don't make it easy to steal. Don't carry your Social Security card in your wallet or purse and only give the number to others you have independently confirmed are entitled to it and will protect it. When others inquire for the number, ask them why they need it, how it will be used, how they will protect it from being stolen, and what happens if you refuse to disclose it.

Lock Your Mail:

Mail theft is as common as shoplifting today. It is an easy way to steal a person's identity and every crook knows it. The solution is simple and there is no excuse for delay: install a locking mailbox and never leave mail in an unattended area where a thief can just grab it. Take the time to drop all mail with sensitive information, such as bills, into a post office mailbox on your way to the store.



online
crime



personal
data

Trash Your Trash:

Nothing is sacred anymore. Thieves know to look through garbage cans for old bills and documents containing social security and account numbers. Be sure all such documents, including discarded receipts such as the printed receipt you get at the gas pump, are torn in pieces beyond recognition.

Beware the Internet:

Never has so much information, including the ability to shop, bank, and complete financial transactions, been more at our fingertips. Beware. First, assure that you have adequate firewall and security software on your computer to protect it from hackers. Keep the software current and updated. Second, as with transactions over the phone and via mail, do not disclose personal information such as your social security or credit card numbers unless you have verified the security of the transaction. If, despite your vigilance, your identity is compromised, immediately notify all credit card and bank account holders and contact the appropriate governmental authorities to fight back.



1. How many people are victim of identity theft daily?

- a. 10,500 b. 27,400 c. 3,900 d. 42,000

2. According to a 2013 report in Pediatrics, Official Journal of the American Academy of Pediatrics, teenagers spend how many hours online outside of school each day?

- a. 1.5 b. 2.7 c. 4.2 d. 5.1

Answers: 1 (B) 2 (A)

Fight Back

usdoj.gov/criminal/fraud/websites/idtheft.html
www.azag.gov/identity-theft

More info:

privacyrights.org/identity.htm
idtheftcenter.org
fightidentitytheft.com

+100
one
hundred
years



The lawyers of KSS have over 100 years combined expertise in personal injury, products liability, medical malpractice, and governmental liability cases. Most of our cases are referred to us by other attorneys, and we have paid over \$10 million in referral fees to these lawyers in the last three years alone.



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happenings



Jim Campbell is manager of the Sabino Canyon Little League AAA Diamondbacks. This year, the Diamondbacks are going to emphasize speed and defense, as we lack the big bats in the middle of the order. Also, Jim recently gave a seminar to the Pima County Young Lawyers

on how to handle the touchy situation of when your supervising attorney asks you to do something unethical. Lastly Jim was recently appointed to be on the Executive Counsel of the Arizona Bar Trial Section.



Ted Schmidt—Ted led the charge in the remodeling of an old building at Brandi Fenton Memorial Park to become the Ann Kathryn Schmidt Kickin' It Clubhouse. The ribbon cutting for the new facility was on Ann's birthday, January 3rd. Over 500 people attended the ceremony. More recently Ted was elected President of the Pima County Junior Soccer League. In this position, along with his service as

District II Commissioner to the Arizona Youth Soccer League he expects to champion some major improvements in the youth soccer programs, particularly here in Southern Arizona. Ted also successfully led Tucson soccer coaches in the Coaches United Against Cancer Shave off. He and 16 other coaches as well as at least a dozen soccer players obtained pledges and had their heads shaved. Over \$7,000 was raised here in Tucson to support the fight against cancer affecting kids.



Dev Sethi is a member of Angel Charity for Children's Advisory Board. Angel Charity has raised and donated over \$25,000,000 to Southern Arizona children's organizations in its 30 year history. Angel Charity recently announced its 2014 beneficiaries. Congratulations to Girl Scouts of Southern Arizona, Aviva Children's Services and El Grupo Youth Cycling. You can learn more at www.angelcharity.org



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Are you interested in our thinking? If you would like to be added or removed from our mailing list for the KSS newsletter, please contact Helen Smith 520.545.1674 or hsmith@kss-law.com.

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