

YOU & the LAW



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The facts about you, your doctor and 'defensive medicine'

Do you believe your doctor performs unnecessary tests on you? Most patients would probably respond "no" to such a question and might even suggest their medical providers are rather conservative when it comes to ordering expensive tests.

In their never-ending effort to manipulate public opinion about our nation's courts, judges and attorneys, some special interest groups have mounted campaigns aimed at convincing patients that their doctors routinely order unnecessary medical tests to avoid being sued by you — their patient. These special interest organizations have never explained how ordering unnecessary medical tests protects doctors from lawsuits.

In their zeal to create a new myth about lawsuits, they even created a new tag: "defensive medicine."

Governmental and academic studies have shown that "defensive medicine" as defined by the critics doesn't exist and that lawsuits against negligent providers account for only a tiny portion of the nation's total health care costs. A study by the National Association of Insurance Commissioners found that the total spent defending claims and compensating victims of medical negligence



in 2007 represented only 0.3 percent of health care costs.

The American Association for Justice — a broad-based, international coalition of attorneys, law professors, paralegals and law students — recently issued a report shooting down "defensive medicine" myths. Citing numerous other studies, the AAJ report concludes that "the vast majority of academic and government research has found liability does not lead doctors to run extra tests..."

The "defensive medicine" issue is only one of numerous myths manufactured by special interests whose motive is to shield wrongdoers from liability. These special interest

organizations represent such industries as tobacco, hospitals, insurance, pharmaceuticals, oil and gas, banking and manufacturing.

Their efforts extend beyond creating "defensive medicine" myths. They smear judges, juries and attorneys who represent consumers. How? Through biased surveys, by highlighting unusual lawsuits and trying to position them as typical of most lawsuits filed by injured people, and by attempting to link high insurance rates to "too many lawsuits."

The fact is that many states already have laws that provide special legal protection to hospitals, doctors and other health care providers when a patient sues them for malpractice. These include procedures to screen medical malpractice lawsuits before they are allowed in court. Other laws limit how much a health-care provider owes to someone injured through medical malpractice.

Despite these special privileges and even though as many as 98,000 patients die each year from preventable medical errors, the health-care industry is working to give itself even more protections at the expense of patients.



Your financial life is not so private

Just about everybody is aware that companies and the government collect plenty of information about people, but you might be surprised to learn the extent to which such data is gathered and shared with others. Information collected about you can range from how many checks you've bounced to the types of medication you take.

Much of this data is gathered for legitimate purposes, such as creating credit histories for individuals and businesses. Credit histories and credit "scores" are used by a wide range of businesses to determine whether to extend credit, rent an apartment or even sell an insurance policy.

The companies that gather this information then provide services to banks, insurers, retailers and many other businesses. Some companies track your shopping preferences at retail stores or on the Internet and use the information to solicit you for other products.

The availability of so much personal information is apparently too tempting for scam artists who use it in schemes designed to steal your money. These schemes range from identification theft to offers of "too-good-to-be-true" business deals.

Scam artists acquire personal information through a range of methods, including stealing your mail and sending fake e-mails that lure consumers into

providing information about bank accounts or credit card numbers.

Perhaps the most common type of information gathered is your credit history, which is collected and distributed by the big three companies in this business: Equifax, Experian and TransUnion. These companies have millions of files on consumers' credit histories, which they sell to other businesses.

By monitoring your credit information as gathered by these three companies, you can watch for unauthorized use of your identity by

scammers. U.S. law permits consumers to obtain one free credit report from each company once a year by visiting www.annualcreditreport.com or by calling (877) 322-8228.

Another way to guard your privacy is to carefully read the privacy-rights notices mailed to you by banks and other financial institutions with which you do business. Unless you tell them otherwise, some of these financial institutions may sell portions of the information they have about you.

You may receive a privacy-rights notice when you visit certain Web sites or from retailers with whom you shop. Tell them "no" if they ask about sharing your information.

Companies also gather personal information about you through warranty cards that come with many products. These warranty cards often ask consumers for such facts about themselves as income, reading habits and hobbies. You don't need to fill out all this information — just provide your name, address and details about the product that will be covered by the warranty.

The job of the Federal Trade Commission is to help protect consumers. The FTC's Web site, www.ftc.gov, includes extensive information about protecting yourself against fraud.



New rule requires consumers to approve overdraft fees

A new rule put in place by the Federal Reserve Board will help protect consumers from overdraft fees and may stop a \$5 cup of coffee from becoming a \$40 cup. The new rule, which takes effect July 1, 2010, prohibits companies from hitting customers with non-sufficient funds fees on ATM and debit card transactions unless consumers give consent to such overdraft protection.

Banks will be required to notify new and existing consumers of their overdraft services and give customers the option of being covered. If customers don't "opt in," any attempted debit or ATM transactions that exceed their account balance will be denied.

According to the Federal Reserve, the rule is a response to complaints from Congress and consumer groups that NSF fees are unfair because many people assume they can't spend more with a debit card than the amount in their account.

A 2006 study conducted by the Federal Deposit Insurance Corporation found that 75 percent of banks automatically enrolled customers in their overdraft programs. The banks included in the study collected an estimated \$1.97 billion in NSF fees in 2006.

The new rule does not cover checks or regular electronic payments. Consumers will still be able to continue paying important bills such as rent and utility bills and be covered in the event of an overdraft.

The Federal Reserve Board recommends taking the following steps to manage your account and avoid NSF fees:

Pay special attention to your electronic transactions. Record your ATM withdrawals and fees, debit card purchases and online payments.

Review your account statements each month. Between statements, you



can find out which payments have cleared and check your balance by calling your bank or by checking online or at an ATM.

Keep track of how much money is in your checking account by keeping the account register updated. Record all transactions when you make them and do not forget to subtract any fees.

For more information on the new rule and NSF fees, visit the Federal Reserve's Web site at www.federalreserve.gov.

Texting while driving bans spreading across the nation

Personal electronic devices are improving worker efficiency and making communication easier for millions of Americans. But some of the devices are also contributing to thousands of traffic deaths.

For years attention has focused on the risks of talking on a cell phone while driving. Now, the popularity of text messaging has become a growing safety concern. Statistics maintained by the National Highway Traffic Safety Administration (NHTSA) indicate that in 2008 drivers under 20 had the highest distracted-driving fatality rate among all age groups.

In late 2009, President Obama issued an order banning all federal workers from texting while driving on government business. In his order, the president said, "Text messaging causes



drivers to take their eyes off the road and at least one hand off the steering wheel, endangering both themselves and others."

Many private employers are also banning texting and cell phone conversation by their employees while on company business.

NHTSA reports that in 2008, an estimated 5,870 people were killed and

515,000 were injured in crashes that involved a distracted driver. In 2004, distracted driving was a factor in 12 percent of fatal crashes. That figure jumped to 16 percent in 2008.

While speaking on a cell phone and texting are not the only activities that distract drivers, their growing popularity — especially among youths — is causing safety officials great concern.

NHTSA's position regarding cell phone use while driving is that it "can pose a serious cognitive distraction and degrade driver performance." NHTSA's official policy position is that "... the safest course of action is to refrain from using a cell phone while driving."



Internet product endorsements: Can you trust them?

As consumers increasingly turn to the Internet to help make decisions about what products to buy, the role of individuals who give such advice has grown tremendously. Thousands of people use the Internet to dispense advice on every type of consumer product and service imaginable.

Some of these individuals write messages for their own Web commentary site, also called a Web log or "blog," while others post them on third-party sites.

Often called "reviews," such advice usually comes across as unbiased opinions from consumers who have actually tested the product or service. The often-untold story is that some of these "reviewers" are given the products for free or even receive compensation for their endorsement from the manufacturer, retailer or service provider marketing the product.

Endorsements can range from a person claiming to have shed 50 pounds in two months using a particular diet to a mother recommending a certain child's toy to other parents.



In late 2009, the Federal Trade Commission stepped in with new "guidelines" governing endorsements and testimonials, including blog endorsements and other "word-of-mouth" marketing.

The new guidelines, effective Dec. 1, 2009, require bloggers who make an endorsement to disclose the "material" connections they share with the seller of the product or service. This means that a

blogger who writes positive things about a product or service must disclose whether he or she received any compensation or free products from the advertiser.

Until the recent change, advertisers were governed by guidelines issued by the FTC in 1980. Persons or companies that violate the FTC's advertising rules are subject to fines.

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