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North Carolina Legislators
Raleigh, NC

Reference: Medical Malpractice Legislation

Dear Legislator:

I am paralyzed for life because of a medical mistake. I used to enjoy being independent and getting things done without relying upon others. I spent almost all of my time outdoors either fishing or working in the yard or my wood shop. Now, my legs don't work and I spend most of my time inside the house heavily medicated and in my wheelchair.

In June, 1998, I was involved in a car accident. When the car I was in hit a utility pole, I was thrown out of the car into a ditch and knocked out. The rescue workers put a hard cervical collar around my neck, put me on a back board and took me to a large hospital nearby, which had a Level 1 trauma center. Fortunately, I did not have any broken bones and the medical records show that I was able to move my arms and legs. They took some x-rays of my neck, but failed to take the steps necessary to "clear" my cervical spine. That could easily have been done with magnetic resonance imaging (MRI) that was available in the hospital where I was treated. However, for some unknown reason, they took off the hard collar around my neck BEFORE they "cleared" my spine. My mother, who is a nurse, asked them then why they removed the hard collar, but no one could answer her.



Over the next several days, they continued to do more x-rays to try to "clear" my spine. They later admitted that none of the x-rays were

adequate to do so. That is why they kept taking more x-rays. What they could not see with the inadequate x-rays was that I had a severe injury to my ligaments – the tissues that held the vertebra in place had been stretched and disrupted and were unstable. An MRI would have shown this injury but none was taken. My mother also asked them why couldn't they do an MRI. She never was given an answer.

Several days later, still in the hospital, they were trying to get me up out of bed to walk and do physical therapy. Once, when they sat me up, my arms just went numb. This is reflected in the medical records. They just laid me back down in the bed, but did not put a hard collar back on.

After seven days in the hospital, the ligaments that had been injured in the car accident could no longer hold the vertebrae in my neck in place. One of the vertebrae slipped out of place and pushed against my spinal cord. Everyone agreed that the injury to my spinal cord did not occur in the car accident, but happened after I had been in the hospital for a week. I have never been able to walk again.

Since then, the hospital now has a policy in place that calls for a conspicuous white "cervical spine clearance" sticker to be put in the patient's medical chart after the spine has been cleared, showing when the hard collar can be removed and when the patient is cleared to participate in physical therapy. But all this came too late for me.

They admitted that if they had performed an MRI before my eighth day in the hospital, the injury to the ligaments would have been discovered and that stabilization surgery would have prevented any injury to my spinal cord. Expert doctors who later reviewed what happened criticized their failure to perform an MRI and their failure to maintain protection of my cervical spine in the form of a hard collar until the spine had been "cleared" for injury to ligaments. My case settled just after trial began.



My life is very different now than it was six years ago. I am paralyzed from the chest down and the doctors tell me that I will never walk again. I have no control over my bladder or bowels. With the help of an aide, I have a program that I must go through every day. It includes emptying my bladder and bowels manually and with the help

of suppositories. I need assistance with most everything that I used to be able to do alone. I've lost my independence. I used to be able to take care of myself just fine, but now have to turn to others for help in doing things that I once considered private.

I miss doing things I used to do for fun, like fishing, going to the beach, riding horses, and swimming. I doubt that I will ever do those things again.



It might not be so bad if being paralyzed from the chest down was all that was wrong. Unfortunately, my pain level is such that I must take heavy doses of powerful medications, most of which make me groggy and "out of it." I've gone through periods where I have made the decision that I would rather be awake and in pain than "out of it" for the rest of my life. Other times, the pain is too great and I am forced to try different medications. All have severe side effects. It is only a question of which ones are not as bad as the others. At times, it feels as though I am burning on fire. Other times, it is like having a numb seat. The injury to the spinal cord also causes me to shake – sometimes uncontrollably. These spasms are sometimes accompanied with severe sensations of what feels like electrical current, which cause me to lock up. On these days, I am not able to do much.



Still, on good days, I like to go out in the yard and do whatever I can so that I don't have to ask others. Once, I had to wait until someone passed by to help me get the wheels off of a root so that they would turn again. There have been other times I have had to call 911 for assistance, because there was no one there to help me. Once, while I was trying to change myself because of a bowel accident in the middle of the night, I fell off my bed and a piece of furniture fell on top of me. Fortunately, I was able to reach the telephone. I am afraid of what might happen if there was a fire or another

emergency, such as a burglar. I would be helpless.

I understand that there may be legislation proposed that would put an upper limit on how much an injured patient could recover, even if the jury finds that the doctors were at fault. This does not make any sense to me. The discussion should be about how to improve patient care and how to protect them from preventable mistakes. I read in the paper about how many people die every year because of preventable medical errors. It seems like putting a limit on the recovery will only add more hurt to the people who already hurt the most.

Can't we let a jury of twelve impartial people listen to all the evidence and decide what is the right amount of compensation? They are just regular people – the same people who vote in the elections. The only time they will reach the question of how much, is after the patient has already proven that the doctor was responsible. They would be in the best position to decide what a person has been through and what they will have to go through for the rest of their lives and how much money is the right amount for compensation. It would seem that one person's injuries and one person's pain will be different from all the others and only the jury can decide what is right. I was taught that the right to a jury trial was one of the reasons our country was founded. If we make too many exceptions, then the right to have a jury trial won't mean anything.

I ask that if and when you consider changing patients' rights, please don't forget people like me who have been severely injured because of preventable medical errors. Doctors should not be different from other people when it comes to injuring somebody. We all should be held responsible for the injuries we cause. That is something we all learned long ago. We should all be treated the same.



Thank you for your consideration and please let me know if you would like to talk with me about what happened to me. If we can prevent it from happening to anyone else, then it will be worth it.

Very truly yours,

Elizabeth Fontenot

