

## Patients Beware: Your rights went out in Georgia

*Anti-patient tort "reform" shields negligent healthcare providers, insurers*

BY MATTHEW MONROE

Georgia Watch Communications Coordinator

**ATLANTA** - These days, Georgia emergency rooms should post warning signs that read, "Accountability Free Zone."

The state's so-called tort "reform" law -- passed by the General Assembly on Valentines Day -- shields sloppy health care providers and provides a slew of giveaways to insurance companies, while stripping away more legal rights from families than any other state.

The result of the most talked about measure -- the \$350,000 cap on quality-of-life or "non-economic" damages for victims of medical negligence -- is clear: The cap ties the value of human life and limb to how much money injured patients make.

This basically sets up two court systems -- one that serves the working wealthy, who have substantial "economic damages," and one that will not serve people whose value to their community is not measured by their paycheck -- such as children, stay-at-home moms, retirees and war veterans.

Even before the session ended, Georgia Watch logged cases of possible medical negligence that will never have their day court because the victims are not among the working wealthy. They have little to no income -- thus no economic damages -- so the \$350,000 cap is all they can hope for.

Even for the death of a child.

Because medical malpractice cases are among the most expensive and the hardest won, injured Georgians who have negligible "economic damages" are finding it nearly impossible to find an attorney.

### THE QUIETEST INJUSTICE

But one of the worst provisions is one of the least known: The "ER immunity" provision.

This 11th hour addition to the bill escaped public debate. In a House committee meeting, legislators quietly added it to Senate Bill 3 with no discussion or testimony.

This measure gives a free pass to bad doctors who injure any patient who checks in through an emergency room. Now, health care providers in emergency rooms are held to a lower standard of care than all other doctors in the United States.

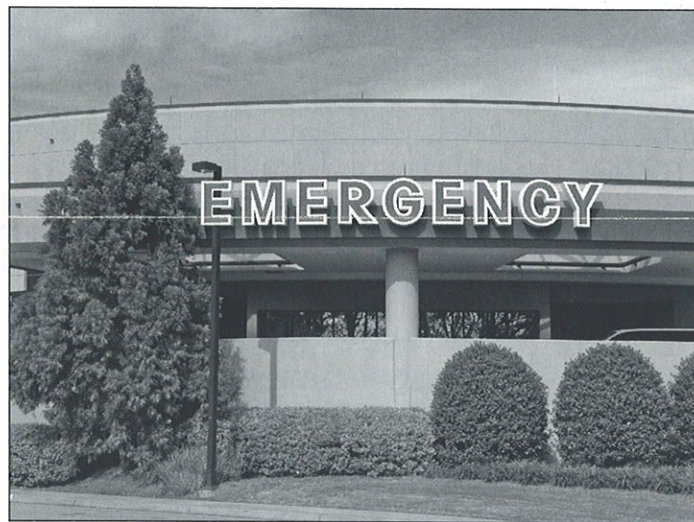
Consider that 1.4 million Georgians live without health insurance and have few places to turn for medical help than the emergency room. Even if you have insurance for your entire family - where will you turn when your husband needs

immediate medical attention after the doctor's office has closed? Or if your child falls off the swing set over the weekend?

### BIG INSURANCE'S MUSCLE

Just two days after the bill passed, Gov. Sonny Perdue signed tort "reform" into law, despite the best efforts of a patient safety coalition led by Georgia Watch and AARP Georgia -- which included coalition members the Georgia Council on Aging, Women's Policy Group, the Georgia Network to End Sexual Assault, Mothers Against Drunk Driving and hundreds of volunteer advocates.

But powerful insurance lobbyists stole the day when they made empty promises to lower doctors' malpractice premiums in exchange for their anti-patient wish list.



**STATE OF EMERGENCY:** Georgia's tort "reform" law holds emergency health care providers to the lowest standard of accountability in America.

## LAMBS WITH WOLVES

Many doctors have bought into their insurance companies rhetoric and believe the net result of so-called tort "reforms" will be lower malpractice premiums.

Sadly, all evidence points to the contrary. Doctors in California and Texas have not seen their malpractice premiums reduced by tort "reforms."

Indeed, California doctors continued to see their premiums rise 450 percent for 13 years after tort "reform" passed there in 1975. But doctors and other insurance consumers saw some \$1.2 billion in rate rollbacks after California voters enacted comprehensive insurance reforms to scrutinize rate increases in that state.

Although Texas doctors in some specialties have seen their rates fall a paltry 17 percent since legislators buckled under insurance lobbyist pressure to pass tort "reform" in 2003

-- the reduction is negligible compared to the nearly 140 percent rate hikes doctors in the Lone Star State saw since 1999.

The only sure legacy of tort "reform" is reduced access to

courts. It is already happening in Georgia.

*At [www.georgiawatch.org](http://www.georgiawatch.org), learn more about how citizens are working to improve safety in Georgia's health care settings.*

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## AARP: Consumer Right to Participate should top lawmakers' '06 priorities

**BY CAS ROBINSON**  
*President, AARP Georgia*

**ATLANTA** – To treat Georgia's ailing malpractice insurance system, which is plagued by rising premiums for doctors and insufficient protections for patients, we need the right prescription.

Considering that patients suffer as many as 195,000 preventable deaths due to medical errors each year, patient safety must be central to any solution addressing the healthcare system.

If Georgia is serious about increasing safety for patients and reducing lawsuits arising from medical errors, then we must eliminate the true root of those lawsuits, which are the medical errors themselves.

AARP Georgia, which represents more than 900,000 members in the Peach State, and several other statewide advocacy groups this year

promoted what we believe strikes a balance between patients' health needs and doctors' business needs: The Consumer Right to Participate Act.

A product of a year of research and collaboration between elder and consumer advocacy groups and citizen volunteers, this legislation draws from patient safety initiatives that are working now to make health care safer for families in other states.

AARP Georgia, the Georgia Council on Aging, consumer watchdog group Georgia Watch and The Women's Policy Group have educated Georgia citizens on the need to increase the State Medical Board's oversight of health care providers, and improve the quality of health care in Georgia by weeding out the relatively small number of repeatedly negligent doctors.

The Consumer Right to Participate Act would do just that, and the need

## Director's chair

**Allison Wall**  
**Executive Director**

As Georgia Watch approaches its three year anniversary, we have a lot to be proud of as an organization : Georgia Watch has become a leading voice in the media exposing special interest efforts to strip consumers of their legal rights and prey on the state's working families and retirees.



Allison Wall

Our research and public outreach have helped everyday families stand up to crooked insurance companies, negligent health care providers and unscrupulous lenders.

While approaching an anniversary certainly is a time to celebrate our successes, it also is a time to take inventory and make improvements to strengthen Georgia Watch and its effectiveness in educating consumers and watchdogging the Peach State's special interests.

To reach even more Georgia families with better information we are revamping our Web site, [www.georgiawatch.org](http://www.georgiawatch.org). Check back frequently for more updates, more information and research and clearer language that will better engage everyday families. Please, take a moment to sign up for our "Action Alerts," which helped galvanize our advocates three to four times a week during the legislative session.

Remember, Georgia Watch receives no money from corporate interests. We rely on concerned consumers like you to support our efforts, so please visit [www.georgiawatch.org](http://www.georgiawatch.org) and contribute securely online using your credit or debit card.

**See AARP page 3**

for these new provisions is apparent:

\*\* In Georgia, just 3.5 percent of practicing physicians were responsible for nearly 40 percent of the state's malpractice payouts between 1991 and 2003.

\*\* During that period, 18 doctors were responsible for between four and eight malpractice payouts each, yet none were disciplined by the State Medical Board.

\*\* The Journal of the American Medical Association in 2003 ranked Georgia's quality of care 47th in the nation, placing the Peach State's health care among the worst in the country.

Even The Federation of State Medical Boards advocates for participation of laypeople on licensing and disciplining boards in its 1998 report "Elements of a Modern State Medical Board." The board recognizes that consumers should play a role in policing providers to break the "white wall of silence." A provision to include public members outside

of the health care industry is a key part of the Consumer Right to Participate Act.

Other pro-consumer provisions include the following:

\*\* Three-strikes-your-out provision that revokes the license of any Georgia doctor with three or more court judgments of malpractice against them.

\*\* Requires hospitals and nursing homes to report all deaths and adverse incidents to the Department of Community Health, which would post findings on its Web site.

\*\* Taylor's Law - Modeled after Massachusetts legislation passed with the support of the state's medical association, this would allow victims of medical errors and their families to participate in the medical board's discipline hearings. AARP Georgia advocates for increased patient protections, chiefly because older Georgians are two to four times as likely to suffer injury or death by medical negligence as are

people younger than retirement age.

The Consumer Right to Participate Act will remedy problems contributing to high malpractice premiums that Georgia's tort "reform" law will not, even according to insurance companies pushing for tort reform. The experience of the nation's largest medical liability insurance company makes the point dramatically.

When GE Medical Protective recently filed a plan with the Texas Department of Insurance for a 19 percent premium hike on doctors, this is verbatim what the company said as part of its justification: "Non-economic damages are a small percentage of total losses paid. Capping non-economic damages will show loss savings of one percent." This filing came six months after the Texas legislature passed a \$250,000 cap on non-economic damages.

The Consumer Right to Participate Act is a step in the direction toward real reform.

## **Title Pawn Loans: Driving consumers into the poorhouse**

BY MATTHEW MONROE

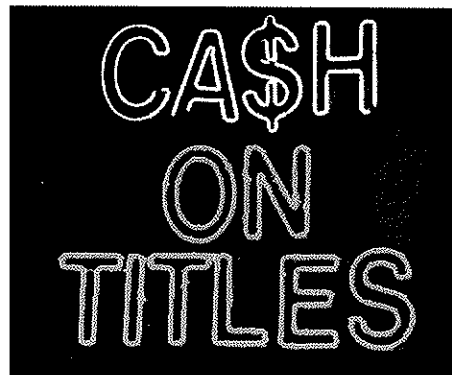
**ATLANTA** - In May 2005, Sharon Jones needed \$500 to buy insurance and registration for her Chevy Beretta. Living on disability and a tight fixed income, she heeded advertisements for fast cash that glowed in neon signs at a shop in her Jonesboro neighborhood. All she had to do was turn over her car title, until she paid back the \$500 loan.

It was the hardest \$500 she ever got.

As of March, Sharon has paid nearly \$1,400 in monthly installments to service the loan -- and she has not even touched the principle.

The very car she needed the loan to drive is the same car her lenders threaten to repossess if she is even a day late on her monthly payment. It is her sole means of transportation.

Title "con" loans would be a more appropriate term for this predatory industry that gouges unwitting consumers with triple-digit interest rates and cruel collection tactics. Like payday lenders,



they target working Georgians, people on fixed incomes and young members of the armed forces living on Georgia's military bases.

But for young soldiers and people like Sharon Jones who say they

never would have taken out their title pawn loans had the terms been clear to them at the outset help may soon be on the way.

This summer, Georgia Senate and House study committees will examine three bills designed to rein in title pawn loan sharks.

Reforms that promise to provide the strongest consumer protections include:

\*\* Lower Georgia's brutal 300 percent cap on title loans to 60 percent, in line with regulated small lenders.

\*\* Require affordable payment plans instead of balloon payments that force borrowers such as Sharon Jones to pay thousands of dollars in refinancing and interest payments.

\*\* Require title lenders to return money over and above the value of the debt when repossessed cars are sold.



# One win for consumers: A captive market still isn't free

BY MATTHEW MONROE

**ATLANTA** – Up is down, right is wrong, and chocolate is vanilla. That seems to be what Georgia's auto insurers were saying when trying to convince legislators to promote "free market" competition in a captive market. Chocolate isn't vanilla, and a captive market is not a free market.

But this year, auto insurers embarked on a bold campaign to deregulate the industry by repealing Georgia's 15-year-old "prior approval" law, which requires the Insurance Commissioner to review each insurer's request to hike *your* premiums.

Georgia lawmakers instituted the system to stem skyrocketing rates in the late 1980s -- a move that has protected Peach State drivers from runaway rates ever since and prevented runaway premium increases that have plagued other captive insurance markets, such as

malpractice insurance for doctors.

As with auto insurance, the law requires doctors to buy malpractice insurance to practice medicine in Georgia. The prior approval system has kept auto insurance rates in check in recent years. Georgia doctors, on the other hand, have paid the price for less oversight by the Insurance Commissioner of malpractice insurance premium hikes.

Late in the legislative session, the auto insurers' pushed two wish-list bills that would let them raise rates up to 9.9 percent every year on each driver, with no oversight -- House Bills 683 and 427.

But Georgia Watch saw things differently. "If it isn't broke, don't break it," Executive Director Allison Wall told Georgia consumers in pub-

lic meetings about insurers' move to decrease public scrutiny of their business practices. Lawmakers killed HB 683 on the House floor, but 427 may return in '06.

Independent research firm Weiss Ratings Inc. reported in March that the nation's property casualty insurance companies reported profits of \$28.1 billion in the first nine months of 2004 - a 22 percent increase over the same period in 2003. This stunning increase in profits comes on the heels of a record-breaking 900 percent increase for the property casualty insurance industry in 2003 over 2002. Despite this dramatic growth in industry profits, consumers have yet to see a concurrent decline in premiums.

"This is further evidence that Georgia must hold insurance companies accountable for the premiums they charge, not reduce oversight of them," Wall said.

*For questions regarding "The Watcher," contact us by phone at 1-866-33-WATCH or by email us at [georgiawatch@georgiawatch.org](mailto:georgiawatch@georgiawatch.org)*

(You may make a secure donation on the Web at [www.georgiawatch.org](http://www.georgiawatch.org))

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