

# THE DAILY RECORD

WESTERN NEW YORK'S SOURCE FOR LAW, REAL ESTATE, FINANCE AND GENERAL INTELLIGENCE SINCE 1908

## First, do no harm

By **ROBERT L. BRENNA JR.**  
Daily Record Columnist

Only doctors should profit from health care.

In previous columns, and during some of my radio shows, I have made it known that I believe doctors must be compensated fairly and should not be made into pawns of various sectors of corporate America.

Doctors are licensed, and worked hard to obtain that license. It is only fair that they be allowed whatever profit our free market system will generate. I had no hesitation recently in my surgeon being compensated as much as he requested, and he absolutely deserved what he got.

Doctors also must be given the freedom to treat their patients as they deem fit, without corporate interference. There is a great difference between a corporation's providing health care for profit, or health-care insurance controlling physicians' profits and patients' well-being, as it compares to the right of doctors to profit from their hard work and excellence.

Unfortunately, doctors are being sold a bill of goods and insurance companies are playing them: Insurers are driving doctors' fears regarding malpractice premiums, and using those fears to push them to organize publically, as happened this week in highly visible trips to Albany.

When former President Bush first took office, he claimed that malpractice premiums are driving doctors out of business. You may recall his eloquent quote: "Good OB/GYNs cannot practice their love on their patients." The former president's misrepresentation — or "misunderestimating" — of the situation is borne out in his own state of Texas. The statistics in Texas showed that, while former Governor/President Bush claimed liability cases against doctors are a major detriment to the medical budget, statistics showed that, in fact, only 4/10ths of 1 percent of Texas's medical budget was being paid for lawsuits. The chasm between the truth, and what

was falsely claimed, was bigger than the Grand Canyon.

The truth is that New York absconded \$600 million when it took over a medical malpractice carrier, then put the \$600 million into its own coffers and never paid it back. That figure is manipulated, and sometimes unfairly omitted, as part of the scare tactics being used against doctors — and the rest of us — when claims are made that medical malpractice premiums must be lowered by tort reform. That's a crock. Don't buy it.



Allowing a corporation to exist by profiting from health care, as opposed to doctors themselves, is intolerable. Health insurers' denying patients access to good medical care for the sake of improving profitability is unconscionable. Many of you may have seen the testimony of the claims adjuster who wept openly before Congress when she said she knew in her heart that many people had died while she earned bonuses based on their health care claim denials. Certainly a few cents per share being distributed through Wall Street to millions of profit-motivated investors will lead to nothing short of evil. It may be fine for a McDonald's or a General Motors or Kodak, but it is unconscionable to allow the process to continue when it simultaneously deprives doctors of fair compensation and allows corporations to spend our money on billboards pitting hospital against hospital. It also allows health insurers to intentionally worry doctors about potential civil liability because they are denied access to diagnostic testing believed necessary to ensure the health and well-being of their patients.

First, do no harm.

*Robert L. Brenna Jr. is a partner in the Rochester law firm of Brenna, Brenna & Boyce PLLC, which his father founded. He is president of the New York State Academy of Trial Lawyers. Brenna also hosts a Sunday morning radio program entitled "The Brenna & Brenna Law Forum," on WHAM 1180 AM at 8 a.m., online at [www.wham1180.com](http://www.wham1180.com).*