

Medical authorization and consent to “tort reform”

*(Bringing Virginia patients and doctors together
to fight the high cost of medical care)***

WARNING: Tort reform affects your rights! Please do not sign this form unless you have had a face-to-face discussion with your doctor about tort reform.

Dear Dr. _____, I understand that I (or my child, _____) will shortly be undergoing the following medical care with you:

Surgery _____ Anesthesia _____ Important medical exam/treatment _____

On behalf of me and/or my minor child, I agree as follows:

It’s a good idea to limit awards in medical malpractice cases

Like you, I am worried about the high cost of health care. Although I never really thought about it before, I think that it’s a really good idea that if you cripple me or my child for life, that my opportunity to recover damages from you be limited.

Virginia’s current laws do limit damages—but it’s not enough

In Virginia, we already have laws which limit my recovery from you, no matter how many doctors are careless. For example, even if my medical bills and lost wages are millions of dollars, my recovery from you is currently “capped” at \$1.7 million. I am agreeing to “cap” my recovery at \$250,000 for pain-and-suffering damages, in addition to the total “cap” of \$1.75 million.

You (the doctor) can sue me for everything—that’s OK

You have told me, on the other hand, that if I cripple you on the highway with my car, that you can sue me and recover for all of your medical bills, lost wages, and pain and suffering without limit. This seems to treat you better than me, but I am willing to sacrifice my family’s well-being for yours.

I’ll have to pay back what I get from you to my own insurance company

You also have explained to me that in certain circumstances, my own health insurance plan will want me to deduct from my recovery, and send to it, 100 percent of the medical bills it paid for my injury. I also understand that if the reason you are treating me is for a work-related injury that my workers’ compensation insurance company will have a claim for all of the money it spends for my medical care and lost wages. What these insurance companies are owed will be deducted from my recovery against you.

You (the doctor) support new restrictions on my right to get on with my life

You have carefully explained to me that these laws aren’t enough for you and that you support new changes to the laws in Virginia that will further restrict any recovery that I or my child may be entitled to. To be clear and direct, if you blind me, paralyze me, or burn me and I am disabled or in severe pain for the rest of my life, the most I could recover from you (after paying back my own health insurance plan) is \$250,000.

I looked but I couldn’t find them—just where are those “big verdicts anyway?”

I asked you for, but you were unable to produce, a list of the so-called “outrageous medical malpractice jury verdicts” in Virginia. If you find any, please let me know.

Feel free to photocopy and distribute this form and modify it for states other than Virginia.

I can't wait—I want to agree to these new laws right now!

I realize that it may take a long time for the new laws further restricting my right to sue you to pass since there is a great deal of debate about whether there is any relationship whatsoever between malpractice claims in Virginia and your insurance premiums, so I am willing, in order to make it more affordable for you to practice and your family to eat, to **AGREE IN ADVANCE** that these new proposed restrictions apply to my case. After all, we all need to pitch in to solve your business profit problem.

So, in order to help you, your family, and your business, I hereby solemnly agree that if you hurt me or my child, then:

- No matter what happens, the most your insurance company will ever have to pay for my claim is \$1,750,000.
- If any of your colleagues, other health care providers, the hospital, and/or the nurses also participate in my injury, you can split the \$1,750,000 amongst you, but I will get no more.
- That out of any recovery from you I may have to pay back my own health insurance or disability insurance company for everything they paid because of my injury.
- That even if I or my child is crippled, disfigured, blinded, or in chronic severe pain for the rest of my/his/her life, the most you will have to pay for my pain, suffering, humiliation, and embarrassment is \$250,000.
- That if my total medical bills and lost wages exceed the “cap,” I will either pay the extra myself or go on welfare. I promise that if because of your “cap” I run out of money, I won't make another claim against you later.

Secrecy Agreement

I hereby agree in advance that if you hurt me or my child and we settle my claim, we will keep the claim and the settlement secret so that no one else will find out that you have settled my case. I also agree, as is required in most settlement agreements, that I will pay you back a large portion of the settlement if word leaks out that you paid me.

_____ Date _____
Patient name (or parent if patient is a child)

Doctor's name: By signing this form, the doctor promises that he/she has had an open and honest discussion with the patient about tort reform and has disclosed to the patient all prior claims paid by or on behalf of the doctor for medical malpractice. The doctor also has disclosed all pending claims so that the patient can make an informed choice about who to trust his/her life to.

****This form is authorized to be used by any doctor and any patient in Virginia. It is designed so that health care providers can have honest discussions with their patients (and parents of minor patients) about the impact of tort reform on patient care. It is also designed so that those who can't wait for tort reform to pass on a national or statewide basis can go ahead and enter into private contracts with their doctors for upcoming treatment or surgery. It is hoped that if a doctor can get every patient to agree to this that maybe the doctor can get a better rate on his insurance, and thus, whatever the patient ends up paying out of pocket for his or her injury can be passed along as a savings to the rest of society in terms of lower-cost medical care.**

This form is provided as a public service by Benjamin W. Glass III in an effort to educate the public (www.BenGlassLaw.com). To get a free copy of “*Why Most Victims of Medical Malpractice Never Recover a Dime*,” call **1-800-561-1670, ext. 475**.

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