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Legal Matters®

Consumer Safety
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Medical errors are now the third leading cause of death in the U.S.

If someone asked you to list the leading causes of death in the United States, you might name heart disease, cancer, car accidents, strokes, and other problems.

But would you think of “medical mistakes”?

According to researchers at the prestigious Johns Hopkins University, you should.

In a study published in the *British Medical Journal*, they found that medical errors caused more than 250,000 deaths a year in the U.S. between 2000 and 2008. Only heart disease and cancer caused more fatalities during that period.

That means medical mistakes were responsible for about 700 deaths a day, or nearly 10 percent of all deaths in the country.

When most people think of medical errors, they might imagine a botched surgical procedure or a doctor failing to diagnose a serious condition until it's too late to treat it. Those are certainly errors, and can show a lack of skill or training. But perhaps more common today are the sorts of inadvertent slip-ups that happen due to our increasingly overburdened health care landscape.



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These can include nurses in a busy hospital giving someone the wrong dosage of a medication or giving drugs meant for one patient to another, doctors ordering a prescription without getting a full report of other drugs the patient is taking and checking for interactions, and communication breakdowns when a patient is moved within a hospital or discharged to another facility.

Why aren't medical errors more widely reported? One reason is that doctors and nurses can be reluctant to admit that a patient died due to a preventable mistake.

But according to the authors of the study, another problem is that even if a patient dies due to an error, the Centers for Disease Control and Prevention will count the “cause of death”

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CONSUMER SAFETY BRIEFS

Small airplane accidents are surprisingly common

Major airline crashes generate tremendous media attention on the rare occasions when they occur. But statistics show that you're far more likely to be hurt in a small plane. In fact, more than 50,000 people have died in small plane crashes in the U.S. over the past few decades.



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Sometimes this is due to errors made by pilots – many of whom are inexperienced. But a significant number of crashes are the result of defective parts. And there's growing evidence that some parts manufactur-

ers have known about defects for years, but covered them up and refused to issue recalls.

In Iowa, three people were killed and another injured when a Piper Cherokee crashed. An investigation showed defects in the plane's engine and carburetor. Manufacturers Lycoming Engines and Precision Airmotive tried to argue that that crash was the pilot's fault, but it came out that Precision had received more than 100 complaints of defective carburetors, and Lycoming had knowingly continued to use them. The court said the manufacturers were responsible, and awarded a significant amount of damages.

Meanwhile, a judge in Florida recently ruled that Cessna knew about a serious defect for years and failed to repair it. Now the company is being accused in court of reckless disregard for human life.

While you might assume that a small plane crash is the result of a pilot's mistake, it's worth speaking to an attorney to see if the real culprit might be a piece of equipment.

Dangerous airbags still being installed in new cars

Millions of cars in the U.S. have been equipped with airbags made by the Takata Corporation. As you may know, some of these airbags have deployed improperly, exploding and sending shards of shrapnel into passenger compartments. The government has linked these airbags to at least 10 deaths and more than 100 injuries, and launched one of the largest safety recalls in U.S. history.

What you might not know is that at least four car companies – Fiat Chrysler, Mitsubishi, Toyota and Volkswagen –

are still installing these airbags in certain new cars.

Technically, this isn't illegal, although any vehicles using these airbags must be recalled by the end of 2018.

In addition, the manufacturers don't legally have to tell buyers that their new cars contain defective parts that will soon have to be replaced.

But if you're buying a new car, it would be wise to ask whether the airbags in the car have a dangerous track record and are going to be subject to a recall.

Woman who tripped on three-inch step could sue

Nancy Brown was taking a tour of a house she was thinking of renting when she tripped over a threshold on a three-inch drop from one room to the next. She broke her hip.

Nancy brought a lawsuit against the property owners, claiming that the three-inch drop was a tripping hazard. Although the floor of one room was made of wood and the floor of the other was vinyl tile, the two floors were apparently the exact same color, which made the drop-off very difficult to see, Nancy claimed. She said the owners should have warned her of the drop or done something to highlight it.

The owners argued that steps between rooms are common and that the step in this case didn't violate the building code. But the Tennessee Court of Appeals said a jury should decide whether the "invisible" step was dangerous enough that the owners could be held responsible for the injury.

Mortgage servicer liable for causing emotional distress

Even if you haven't been physically injured, you might still be able to sue someone if they violated your rights and caused you serious mental and emotional harm.

That's what happened to Jane McGinnis, a retiree in Georgia who owned several rental properties.

When a company called Homeward Residential took over servicing the mortgage loans on several of McGinnis's properties, it began charging her \$200 a month more than she actually owed. McGinnis made numerous inquiries about the error, and the company admitted it made a mistake, but it still insisted that she pay the "past due" fees.

She then started receiving collection calls, bills with additional charges and fees, and threatening letters.

McGinnis sued the company in court, claiming that the ordeal had caused her to suffer severe depression and vomiting. A jury awarded her compensation for the emotional harm she suffered, and a federal appeals court upheld the award.

Medical errors third leading cause of death in the U.S.

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as the underlying sickness for which the patient was seeking treatment. So if a cancer patient dies due to being given the wrong drug in a hospital, this will be treated as a death due to “cancer,” even if the cancer itself wasn’t fatal. As a result, medical errors are grossly undercounted.

Not only that, but the Johns Hopkins researchers only looked at errors made by medical personnel. The number of people who die due to medical mishaps would be far higher still if the following were also counted:

► **Hospital equipment.** Did you know that hundreds and maybe thousands of fires occur in operating rooms each year?

Surgery often involves oxygen being fed to a patient through a mask or nasal tube. Sometimes this can result in elevated levels of oxygen in the operating room. When pure oxygen interacts with heat or a spark from a medical instrument, this can cause a fire. Fires can also erupt when a hot surgical instrument touches fabric on an operating table.

Studies have estimated that 650 operating room fires occur each year in the U.S., but the real number could be much higher, since not all states require hospitals to report such fires or specify where they started.

In one recent case, Army veteran Vince Anthony suffered second- and third-degree burns due to an operating room fire when he was having a cyst removed from his forehead. And 89-year-old Florida grand-

mother Adele Bearman suffered burns over more than 25 percent of her body due to a surgical fire, and died five months later.

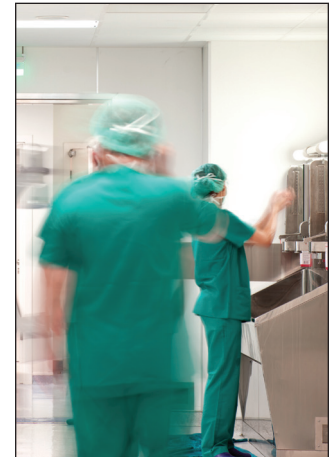
► **Medical devices.** Medical devices can sometimes have manufacturing defects, the same as any other product – but often with far more serious consequences.

William Fertik underwent a procedure at a Boston hospital to have catheters inserted into his heart to correct an irregular heartbeat. Surgeons deployed a wire made by Abbott Vascular to guide the needle that would be used to puncture the inner wall of his heart. However, unbeknownst to the doctors, a portion of the wire broke off inside his body. He soon reported back to the hospital with stroke symptoms.

The surgeons didn’t do anything wrong, but a federal judge allowed Fertik to sue Abbott for selling a defective product.

► **Drugs.** Drugs – even very effective ones – can have dangerous side effects. For example, fluoroquinolones are powerful antibiotics that treat bacterial infections such as urinary tract infections, bronchitis, pneumonia and diverticulitis. They include brand names such as Cipro, Levaquin, Avelox, Noroxin and Factive.

While the drugs can work wonders for some patients, recent studies suggest that they can also lead to permanent nerve damage resulting in constant pain and lack of mobility. In some cases, they may lead to a breakdown of arteries, causing an aneurysm.



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Traveling carnivals can be hazardous to your safety

Traveling carnivals can be old-fashioned fun, with exciting rides, cotton candy, funhouse mirrors and games of skill. But they might not be as safe as you’d like to suppose.

Unlike amusement and theme parks that operate at a fixed location, traveling carnivals often aren’t subject to federal and state safety inspections. In addition, carnivals are constantly traveling and their rides are taken down and reassembled day after day, which can increase the risk of mistakes. Carnivals also move between different climates, allowing materials to shrink or expand, which can make rides less stable. And the seasonal nature of carnival jobs contributes to a culture of safety that may be a lot looser than you’d find at an amusement park.

Very few carnivals report their accident data, so it’s hard to know how widespread the safety problems are, but there have been some horrifying accidents. In Nebraska, an 11-year-old girl was severely injured

when her long hair got caught in the machinery of a spinning ride called the “King’s Clown.” The ride operator failed to stop the equipment, and the girl’s mother ran to the control panel and hit the emergency button herself.

Last spring, a 16-year-old girl was killed when she was thrown from a spinning ride called the “Sizzler” at a carnival in El Paso, Texas.

If you or someone you know has suffered an injury at a carnival, it’s critical to talk to a lawyer as soon as possible. Carnivals pack up and leave town very quickly, and often loan rides to each other, so time is of the essence when it comes to investigating the accident and seeing who might be responsible.



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Shooting ranges may be causing lead poisoning

We usually associate lead poisoning with paint in older buildings, or perhaps the contaminated water supply in Flint, Michigan.

But if you're one of the 40 million Americans who

use firearms for sport, you should know that the use of lead ammunition also carries a risk of lead poisoning.

A recent investigation by the *Seattle Times* revealed that 20 children and teens who had spent time at an indoor shooting club in Washington state had tested positive for lead poisoning. And an

Alaska study found that the single largest source of lead exposure in children between the ages of six and 17 was firing ranges.

Exposure to lead can cause nausea, fatigue, organ damage, mental impairment, and even death. Children are particularly vulnerable to the threat because their brains are still developing.

Gun ranges pose unique risks. When a gun is fired, the base of a lead bullet can become airborne in the form of microscopic particles. When it hits the target, the bullet fragments further. This means an entire area can become contaminated, including auxiliary surfaces and food. The risk is particularly serious at indoor ranges, especially if they're not well-ventilated.

Employees who work at shooting ranges are at particular risk, since they spend so much time there. One firearms instructor in Kentucky reported to the *Seattle Times* that she was ordered not to breastfeed her newborn baby because she had dangerous levels of lead in her blood.

Ranges that use copper-jacketed bullets can reduce the danger, because the copper encapsulates the lead and limits exposure.

