

# COMMENT & CONTROVERSY

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"Troubling news: Maternal mortality is on the rise," by Robert L. Barbieri, MD (October Editorial)

## Legalized abortion has reduced maternal mortality

In 1972, the year before *Roe v. Wade*, the rate of maternal mortality in the United States was 34 deaths for every 100,000 births. In 1973, after legalization of abortion, the rate declined by 50%. Therefore, to the list of strategies to reduce maternal mortality, I would add: secure access to safe and legal abortion, when needed.

According to the Alan Guttmacher Institute in New York, 1 of every 550 women who underwent illegal abortion died of complications. I think this point will be of interest to your readers.

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## Dr. Barbieri responds: Safe abortion is important

I appreciate Dr. Hakim-Elahi's important reminder that illegal abortions are associated with a high rate of maternal death. Dr. Hakim-Elahi has made major contributions to women's health by leading efforts to make pregnancy termination as safe as possible. I deeply appreciate all his contributions to our field.

"An idea takes root: Hold those expert witnesses accountable," by Aaron S. Kesselheim, MD, JD (November)

## Needed: An unbiased way to assess expert testimony

Although I am entirely sympathetic with the premise of Dr. Kesselheim's article—that expert witnesses should be held

accountable for their statements—this idea is *not* taking root. Why not? Because holding experts accountable is done in the worst possible way and, sometimes, for the worst reason: getting even.

The article describes three cases in which an expert witness retaliated or succeeded in negating or reversing efforts to hold them accountable for their testimony. The result? All three cases were effectively derailed; it was never definitively determined whether the testimony was objective and nonpartisan.

I would be the first to agree that medical societies should have authority over unethical conduct by physicians. But when it comes to judging the behavior of expert witnesses, they need to demonstrate objectively—even quantitatively—that a preponderance of evidence indicates that the expert rendered a partisan opinion with the intent to misinform a jury. I have described a way to accomplish this goal in a number of articles.<sup>1-3</sup>

Frankly, I don't care much about disciplining experts. I care more about justice and about reducing the total cost of claims for a malpractice carrier. Tort reform reduces this cost by 12% at most, whereas the methodology described in these articles can lower it by at least 28%.<sup>1-3</sup>

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## References

1. Smith HN. Model evaluating the validity of expert testimony in medical liability cases. *J Leg Med.* 2005;26:207-231.
2. Smith HN. Physicians, heal thyself: an alternative strategy for solving the malpractice crisis. *Contingencies.* 2005; May-June.
3. Smith HN. Defeating the malpractice crisis with standardized review of expert opinions. *Physician Exec.* 2005;31(May-June):24-31.



**"Holding experts accountable is done in the worst possible way and, sometimes, for the worst reason: getting even"**