



JOSIE KING FOUNDATION at BCF
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Son's death personalizes tort reform

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The "Do-It-Yourself Tort Reform Release" that Patty and David Skolnik sent misled me. I thought they were merely clever political advocates.

"Because of my concern for the profit margin of the medical profession and the insurance industry," it says, "if you do any of the following ... break the rules all doctors should follow, kill my child by mistake or inattention, forget to give the right medications resulting in injury or death ... I now knowingly sign away my child's legal right to enforce competent medical care."

It wasn't until I heard what was done to their son Michael, saw the pictures, shared their tears and felt their aching grief that I realized:

They represent our worst nightmare.

So pay attention.

Michael was their only child, a strapping, healthy, 6-foot-4, 22-year-old man, trained as an EMT and studying to become a pediatric nurse. On Sept. 17, 2001, he passed out briefly. Patty and David insisted that he see a doctor, and their primary care physician ordered a CT scan.

The scan was inconclusive, but the doctor suspected there could be a microscopic colloid cyst in the third ventricle of his brain. Michael was admitted to a Denver-area hospital for observation, and a neurosurgeon was recommended.

The neurosurgeon told them the situation was "life or death," Patty said, and that the next time Michael passed out, it could be fatal. He recommended brain surgery be scheduled that week.

But first, he said, he needed to install a ventricular drain to relieve any pressure.

"They did it in his hospital room," Patty said.

"With a hand drill," said David.

When the nurse emerged from the room, "she told us Michael had stopped breathing during the procedure," Patty said. "She gave me the breathing tube they'd used on him. When we asked the doctor about it, he said, 'Who told you that?'"

It was the beginning of a three-year odyssey of brain surgeries, organ failures, infections, paralysis, more than \$4 million in medical bills and utter abandonment by what is routinely called the best health care system in the world.

The first brain surgery, which was done on a Friday, was supposed to take three hours, the Skolniks said. An incision was to be made through a small hole in the skull. A six-day hospital stay would be required for recovery.

"The neurosurgeon called it 'a walk in the park,'" David said.

Instead, a full craniotomy was performed. The neurosurgeon said after more than six hours of surgery that he couldn't find a cyst, Patty said, that he had to do "heavy manipulation of the brain," and that the recovery might be more difficult.

"Then he took the weekend off," said Patty.

By Monday, Michael's eyes were bulging from the pressure of fluids building in his brain. The first of six drains was inserted in his head.

A few days later, Michael had a violent seizure, and the pathologist's report came back on the tissue the surgeon had removed.

"It was normal," Patty said.

Michael spent five months in the hospital, after which he was released to Craig Hospital, a renowned rehabilitation center for brain injuries. After four months, doctors there told the Skolniks they couldn't help Michael.

David and Patty rented a motor home, equipped it like an intensive-care unit and drove 27 hours to take him to the Centre for Neuro Skills in Bakersfield, Calif., their last hope.

I think it's important to know what Michael looked like at this point.

He was on a respirator. He couldn't talk or walk. He could barely move one limb - his right hand. His vision was severely impaired. He had no short-term memory. He had seizures. He wore diapers. He ate through a tube in his stomach. And because of the damage to his pituitary gland in the surgeries, he was growing. He had gained 100 pounds.

The Skolniks weep openly at the memory.

Michael stayed in Bakersfield for eight months. The Skolniks, still trying to hold onto their jobs, spent every other weekend with him. When he was released in January 2003, he was able to take a few steps and speak a few words.

They flew him to Denver and set up an ICU in the dining room of their Centennial townhouse. They cared for him around the clock.

It was six whole weeks before he had a crisis.

The last 18 months of Michael's life were a blur. He had multiple organ failures, severe infections, hospitalizations, another desperate trip back to Craig.

On June 4, 2004, he looked David in the eyes, mouthed the words "I love you," and died.

The Skolniks' grief is so raw, they can think of nothing else.

Nothing else, that is, but the anger.

On Monday, they will board a plane to Washington, D.C., with pictures of Michael, the mountains of notes they kept over his excruciating three-year death and their determination.

They hope Sen. Ken Salazar will meet them, and they plan to speak at the hearings on Capitol Hill on what has so cynically been dubbed "tort reform."

"People need to know about this," said David. "We want to help them understand. And I have to try to help myself."

Suing medical providers for malpractice isn't about the money, they said. It's about accountability.

"Without that, we're all completely powerless," David said.

The Skolniks have filed a wrongful death suit in Arapahoe County District Court against the neurosurgeon. The neurosurgeon denies any malpractice.

If the Skolniks prevail, state law limits the award they could receive to \$1 million.

Medicaid would take a portion to recover its costs; the insurance company would attempt to recover some of its costs; and the attorneys and expert witnesses would have to be paid as well.

The Skolniks expect to get little or nothing.

They laugh bitterly when they think about the people who suggest they only want to profit from Michael's death. Quite the contrary, they say, profits are what motivate advocates of "tort reform."

"I will not go away quietly," David said. "Michael fought so hard to live, there's no way I'm giving up."