

# PUBLIC LIFE

March 2005 – Volume 2, Issue 2  
Owensboro, Kentucky

# Advocate

## THE Medical Malpractice DEBATE

VA HOSPITAL MODEL DEMONSTRATES THAT  
HONESTY IS THE BEST POLICY



# About our Editorial Board



## Rodney B. Berry

Rodney is president of the Public Life Foundation of Owensboro. He joined the foundation in 2000 following twelve years with RiverPark (performing arts) Center. His volunteer and civic experience includes work in education, health care, youth, social services, tourism, and community development. He is a graduate of Western Kentucky University.



## Dave Boeyink

Dave is Associate Professor of Journalism and Director of Media Studies, Poynter Center for the Study of Ethics and American Institutions, Indiana University. He holds a B.A. degree from Central College and an M.T.S. and Ph.D. from Harvard University. From 1978-87, he was Editorial Page Editor for the *Messenger-Inquirer*. He has published articles in *Journal of Religious Ethics*, *Journal of Mass Media Ethics*, *Newspaper Journal*, and *Journalism Quarterly*.



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Fran works as a writer, editor, and communications consultant. She is a former reporter with the Louisville *Courier-Journal* and was a frequent panelist on Kentucky Educational Television's "Comment on Kentucky." Her clients include the Public Life Foundation of Owensboro, University of Kentucky Center for Rural Health, and the Kentucky League of Cities.



## John S. Hager

John established the Public Life Foundation of Owensboro in 1996 following the sale of the Owensboro *Messenger-Inquirer* to the Belo Corporation (Dallas, TX). A graduate of Princeton University and the University of Michigan College of Law, he was a practicing attorney for 19 years prior to returning to the family newspaper in 1973. He has been involved in numerous civic initiatives, including a lead role in the establishment of the Owensboro Community College. In 1996, the Kentucky Press Association honored him with its "most valuable member" award. He was named to the Kentucky Journalism Hall of Fame in 2002.



## Ed Staats

Ed served The Associated Press for 41 years, as a reporter, editor and administrator in 10 AP offices, including the AP's headquarters in New York. He retired in mid-2002 ending a career that bridged the print, broadcast, cable, and online news businesses. At his retirement, he was in charge of AP's Kentucky operations, a position he had held since the mid-1980's. He is a member of the Kentucky Journalism Hall of Fame.

# PUBLIC LIFE *Advocate*

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# THE Medical Malpractice DEBATE

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# Rwanda horror should change us



by Rodney Berry

A few weeks ago, my wife and I joined our Sunday School class to view the film, *Hotel Rwanda*. A gripping, horrific story of international indifference and personal heroism amid the 1994 genocide in that African country, the film left us stunned and perplexed as to why our government – why all of us – did not do more to stop the killing.

It's hard to fathom such a slaughter. What the Hutus did to the Tutsis is equivalent to filling the Owensboro Sportscenter with men and women from all walks of life, elderly, children, even infants, and twice a day for 90 straight days – systematically and unconscionably – butchering helpless victims with machetes. Eight hundred thousand people hacked to death over three months. *Eight hundred thousand.*

Meanwhile, in our corner of the world, our foundation goes about the business of addressing local public issues: health care, education, community development, and more. Important matters. Legitimate concerns. Difficult challenges that affect children, families, community appeal and progress. Things that should not feel petty, yet they do, when we are reminded of what happened in Rwanda.

Here at home, we strive to lure high paying jobs with health insurance benefits, but we need to remember that a billion people live on less than one U.S. dollar per day. We can buy water bottled from crystal clear springs, but in many parts of the world, people bath, drink, and cook with contaminated sewer water. We fret over losing ground with Japan or India on student standardized tests, but in some cultures, girls are not even allowed to enroll in school. We expect an instant police response to a 911 call, but in too many places, there is no social order at all.

In this age when technology and education can build bridges of understanding, tolerance, and commerce, we confront chasms of bitterness and distrust over culture, religion, and economic disparities. Before bridges can be completed across these divides, we must overcome structural deficiencies of oppression and

corruption, we must disarm booby traps of terror.

How can we – in Owensboro, Kentucky – become more mindful and sensitive to pressing international issues? How can our community demonstrate intent to be conscientious citizens in the world community?

1. We can read. We can listen. We can discuss these international issues with others. We can learn more about what is going on throughout the world and not casually dismiss it as irrelevant. (Our foundation's support of our community's first World Affairs Council could be a step in that direction.)

2. We can support existing programs such as Sister Cities, Friendship Force, student exchanges, MISAS and other programs for our growing number of immigrant residents.

3. Our families, churches, and civic groups can take in

refugees, adopt a child, adopt a village, respond to emergencies, or organize a delegation to provide humanitarian assistance in foreign lands.

4. We can speak out, write officials, or otherwise mobilize citizens when programs and policies threaten international progress – be it budget allocations, trade practices, arms policies, environmental debates, troop deployment, or questionable alliances.

We did not remove our headphones of indifference to hear the cry for help from the hotel in Rwanda. The slaughter happened there, as it did in Bosnia, in Cambodia, and as it is happening in Sudan. If we want our nation to be poised for an ethical leadership role and response, we must be poised at the community level as well.

We cannot dismiss international issues as state department responsibilities. We cannot yield unconditionally to military and diplomatic professionals. We cannot brush off peculiar cultures and tribes who want to butcher one another.

If we are to live out a responsible public life, we can no longer make excuses. We can no longer look the other way.

***If we want our nation to be poised for an ethical leadership role and response, we must be poised at the community level as well.***

## Contributors



Tom Gaston

A regular contributor to the *Public Life Advocate*, Tom devoted several months of research to get his arms around the legitimacy of claims made by physicians and trial attorneys on either side of the medical malpractice debate. In so doing, he uncovered an intriguing model that offers another approach to addressing the malpractice claims and insurance premiums problem.

When it comes to health care, "the stakes are so high and the mixture of economic and emotional self-interest so intense that distorted perceptions and selective recall among the major stakeholders seemed to be the rule rather than the exception," he said.

"My hope is that this story may help redefine the debate, shifting the issue from who is right to what is right. Despite its many excellencies, our health care system is clearly in trouble. I came away convinced that we need to be about the business of fixing it."

Tom is a former Purdue University professor who moved to Owensboro eight few years ago to be closer to family.



Chad Gesser

Chad is Director of Institutional Research at Owensboro Community and Technical College. He is also incoming president of Community Conversations, founder of the local Conversations Café chapter, and culprit behind the Owensboro Blog. (<http://owensboro.blogspot.com>)

He awaits his wife's conclusion of law school and the continuing reign of the Boston Red Sox.



Susan Sommerfeldt

As a registered nurse, mother, school volunteer, cancer survivor, and wife of an emergency room physician, health care advocacy has been an integral part of Susan's life long before joining Citizens Health Care Advocates as a charter member in 2002.

Susan is the first to admit that, as an advocate, she has a tendency to "launch into" health care causes that are near and dear to her – particularly when she feels patient care is compromised or when a vital service, such as the school nurse program, suffers cuts.



# Making a DIFFERENCE

“Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has.”

– Margaret Mead

## Coalition speaks out for the poor

A new coalition is gaining momentum. During the second meeting of the Coalition for the Poor on February 21, the discussion centered on the impact that proposed 2006 federal budget cuts will have on many Owensboro-Daviess County families.

Following the meeting, Ron Logsdon, executive director of Audubon Area Community Services, circulated a list of 154 threatened programs: 99 targeted for termination; 55 for major spending reductions. Many of these programs serve our community through:

- dropout prevention
- alcohol abuse reduction
- safe and drug free schools
- educational technology
- foreign language assistance
- arts in education
- civic education
- adult education
- literacy programs
- scholarships
- vocational rehabilitation
- preventive health
- newborn hearing screening
- trauma care
- emergency medical services for children
- rural health
- children’s hospital

The Coalition consists of frontline social workers, administrators, and concerned citizens who wish to speak out for our community’s poor, since the poor so often do not have an effective voice or influence in circles of power. The Coalition is developing an email communications mechanism and plans to meet quarterly. The next meeting: May 16th, 12:00 p.m. at First Christian Church. The public is welcome.

## Empowering citizens at the neighborhood level

The Public Life Foundation of Owensboro is partnering with the City of Owensboro Neighborhood Alliance program to stimulate grass roots, citizen-driven improvement initiatives throughout the community.

Through this \$10,000 program, the Foun-

dation will support creative or proven strategies that effectively address needs or opportunities in our neighborhoods. Government representation, social service support, health care, substance abuse prevention, education, and aesthetic conditions are examples of interests and concerns that will qualify.

Residents are encouraged to identify needs, concerns, and opportunities; underscore their importance with data, surveys, or focus groups; engage and deliberate over options and strategies with other residents in their neighborhood. Other funding partners (as in businesses that serve the neighborhood) are welcomed.

The Foundation hopes to provide an empowering experience for people who, in the past, may not have sensed an ability to make a difference.

## Reproductive and relationships initiative

Hervey Howell (hervey@myway.com) is spearheading an educational effort to reduce the number of births to single women in our community. While our local teenage birthrate is down slightly, many more single adult women are having children, and many struggle economically and psychologically without the support of a partner.

Howell welcomes the involvement of others who share this concern. He plans to distribute information and develop a web-based communications mechanism.

## PRIDE plans unprecedented community facelift

PRIDE (Public Responsibility In Designing our Environment) plans an ambitious array of aesthetic improvements on its April 23rd first annual “PRIDE Day.” Coordinated by volunteer director Rick Hobgood, the scheduled projects (to date) include:

- wildflower demonstration project
- median enhancement demonstration project
- cleanups
- commemorative tree planting
- cemetery plantings

- fence painting
- flower bed planting
- flowering demonstration
- street sweep
- welcome sign clean-up
- park shelter beautification
- community sweep
- neighborhood clean-up

More than 100 volunteers are expected to participate. “We expect more projects to be added,” reports PRIDE Project Manager Liz Seibert.

PRIDE recently extended its membership drive. As of March 11, the organization had more than 850 members.

In 2005, PRIDE plans to develop a master plan based on citizen input for two major corridors leading into the community.

## Public demonstrates strong interest in higher education

In recent months, citizens of Owensboro-Daviess County have been asked, “What is *your* vision for higher education in our community?”

This question, and others that complemented it, were included in a study commissioned by the Citizens Committee on Education, conducted by the Northwest Education Research Center, and financed through local contributions. Responses came from college administrators, trustees, faculty, employers, students, and citizens at-large.

Following interviews with educators and leaders of stakeholder institutions, a mail survey to local employers attracted 66 responses, and a newspaper survey attracted more than 650 responses. These responses were supplemented with input from more than a hundred citizens in three public forums.

Responses are being compiled, analyzed, and incorporated into a strategic higher education study. The public will have a final opportunity to respond to the draft in public forums that will be scheduled soon.



# THE Medical Malpractice DEBATE

VA HOSPITAL MODEL DEMONSTRATES THAT  
HONESTY IS THE BEST POLICY

*While physicians, insurance companies, consumer advocates, and trial attorneys place the blame on one another for high malpractice insurance costs, a Lexington hospital's full disclosure policy significantly lowered its liability costs and may be a model to replicate.*

*by Tom Gaston*

# The Medical Malpractice Debate

Physicians and consumer advocates in Kentucky and Washington are again doing battle over whether to limit damages in medical malpractice lawsuits.

Doctors say that high liability insurance premiums resulting from frivolous lawsuits and high jury awards are driving them out of business. Many favor a cap on how much money a jury or judge can order medical providers to pay in a malpractice case. The cap would limit how much a court could award in punitive damages (as punishment for serious negligence or wrongdoing), and for “non-economic damages (such as pain and suffering) which—unlike medical costs or loss of earning capacity—are not easily measured in dollars.

Consumer advocates and trial lawyers maintain that the premiums are rising for different reasons, and that limits on damages effectively penalize the victims of medical errors.

Yet some say there is an effective alternative which could save money for medical providers and fairly compensate the families for loss of life or quality of life.

What’s more, a leading example of it is right here in Kentucky.

The Veterans Hospital in Lexington has received national attention for lowering its liability costs by changing its policy for dealing with families harmed by medical errors. Now its policy is being replicated by other hospitals across the country – though not yet in Kentucky.

Back in 1987, the hospital began admitting errors up front and negotiating with the families for fair payments, said Dr. Steve S. Kraman, former chief of staff at the VA who is now Vice Chairman of the Department of Internal Medicine at the University of Kentucky Clinic. Over the next 16 years, its average payout per case was only \$16,000.

The reason the approach worked, Kraman said, is that grieving families are more interested in an acknowledgement of their suffering by the hospital than in filing suit.

“They get angry when you refuse to talk to them,” he said. “That’s

a pretty miserable way to treat people and ... when they get angry enough they’re willing to go through all the hassle of a lawsuit.”

Furthermore, Kraman said, the VA’s policy put it in a better legal position when families did file suit because it had a policy of addressing medical mistakes.

Once the VA demonstrated in academic journals that its approach helped it dramatically reduce payments for medical errors the hospital’s “honesty policy” was picked up by other providers.

Among them is the University of Michigan Health System, where legal expenses dropped from \$3 million per year to \$1 million per year, according to a news report.

More recently, the Illinois Senate approved a proposal to create pilot programs based on the VA model in two Illinois hospitals (the pilot program is supported both by Illinois doctors and trial lawyers). A Republican legislator has just introduced a similar proposal in Tennessee.

Proposing the Illinois law was the newly formed SorryWorks Coalition, which is promoting similar programs in 20 other states, including Kentucky.

Yet the VA model has yet to get traction in its home state – in spite of national media attention in USA Today, MSNBC, PBS and other outlets.

## Mongiardo expresses interest in VA model

That may soon change. State Sen. Daniel Mongiardo, a Hazard physician, believes that Kentucky lawmakers should look at the SorryWorks model along with other ways to resolve the liability insurance crisis, especially now that a bill to cap non-economic damages has again failed in the General Assembly.

Mongiardo plans to hold a series of informal hearings between now and the next legislative session in January 2006. He said he anticipates that the hearings could result in support for some version of the SorryWorks proposal along with other reforms.

## Medical Malpractice Lawsuits in Daviess County

What is the experience of Daviess Countians and their doctors when it comes to medical malpractice lawsuits?

In the last five years, there have been no jury awards against doctors for medical malpractice. And, with one exception, only an average number of malpractice cases have been filed in local courts, according to a *Public Life Advocate* investigation.

The *Public Life Advocate* reviewed medical malpractice lawsuits filed between December 1999 and December 2004 against the 41 doctors in Daviess County who practice in the specialties that are most likely to result in legal claims.

These specialties include delivering babies (obstetrics), brain surgery (neurosurgery), treatment of unexpected illnesses or injuries (emergency-room doctors), and the use of drugs to make patients unconscious or numb (anesthesiologists).

### AMONG THE PUBLIC LIFE ADVOCATE’S FINDINGS:

- The vast majority of these specialists – 71 percent\* – have not been sued in the last five years. Only 12 of the 41 doctors have been named in a lawsuit. On the other hand, a much higher percentage of obstetricians have been sued than other specialists – six of the eight doctors, or 75 percent. That’s higher than the 25 to 35 percent that would be considered the norm, according to an insurance company representative.
- There were no jury trials or jury awards against doctors for malpractice. There was at least one settlement in a case against an emergency-room doctor; the file did not indicate the amount, but the plaintiff had originally asked for \$5.68 million.
- Sixteen cases were filed against the 12 doctors. Five of the cases were dismissed or settled; 11 remain open. The longest any lawsuit has been on the books is four years. Insurers say that such lawsuits often take five to eight years to resolve.

The *Public Life Advocate* was unable to determine from the court files how much both sides paid in court costs or settlements. It was also unable to determine if any of the cases would be considered frivolous. In three of the lawsuits, judges ruled against the plaintiffs or the case languished because of the plaintiff’s failure to provide a list of expert witnesses.

However, a weak case is not necessarily frivolous, argued Owensboro plaintiff’s attorney Charles E. Moore, president of the Kentucky Academy of Trial Lawyers. He points out that it is time-consuming, expensive and very difficult to bring a successful suit against a physician.

	Anesthesiologists	Emergency Medicine	Neurosurgeons	Obstetricians	Total
Total Doctors	16	14	3	8	41
# MD’s Sued	2	4	0	6*	12
% Sued	13	29	0	75	29
# Suits Filed	1	5	0	10	16
# MD’s Not Sued	14	10	3	2	29
% Not Sued	87	71	100	25	71

*This table reflects suits filed in Daviess Circuit Court between December 1999 and December 2004. Asterisk (\*) indicates that figure does not include one physician who is no longer practicing in this area but includes another physician in the same clinic named as a party to a suit against the now-departed physician.*

Statisticians caution that percentages based on such small numbers may not be reliable.

Of SorryWorks, the Kentucky Medical Association spokesman Marty White said, “We’re willing to consider any approach to keep doctors in Kentucky and help in recruiting them. This includes SorryWorks, insurance reform, patient safety protections and liability reform.”

(Officials with the Owensboro Medical Health System declined comment “at this time” on the use of such a model locally.)

However it remains to be seen whether any version of SorryWorks would get the support of two of the state’s more prominent physicians, Gov. Ernie Fletcher and his secretary of Health and Family Services, Dr. James Holsinger.

Holsinger, formerly chief medical director for the Veterans Health Administration, said in a documentary about the VA program on PBS in 2000 that it would be impossible to use the same kind of approach outside the federal government’s hospitals.

Holsinger said in a recent interview with the *Public Life Advocate* that the federally-run VA hospitals have ways of discouraging malpractice suits that other hospitals don’t. They include administrative procedures that plaintiffs must follow before filing a lawsuit and the fact that the lawsuits are tried in federal court, where the guidelines for lawsuits are tougher.

“Yes, I think marginally you may be able to reduce your costs, but you will not see anything remotely [like] the small number of malpractice cases filed in federal court against the Department of Veterans Affairs all over the country,” Holsinger said.

Kraman disagreed. “It’s working in the private sector” at Johns Hopkins Hospital in Baltimore, the University of Michigan Health System, the Minneapolis Children’s Hospitals and COPIC Insurance Company, he said.

Holsinger suggested the approach still might be too risky. “The biggest problem is what happens if it doesn’t work” after an administrator has “developed an entirely different culture in the hospital as far as dealing with medical errors is concerned,” he said. “How do I put that genie back in the bottle?”

On the other hand, Kraman asked, where is the evidence that “concealment, deny-and-defend strategies have been a satisfactory method of risk management?”

“Decency does not have to be proven and yes, it is affordable.”

## How does the VA model work?

The VA’s experience with an “honesty policy” began back in 1987.

“We discovered a case where a patient had been killed by a medication error,” Kraman explained. “The relatives had already come and claimed the body. There was really no way for them to know it.”

The VA’s risk management committee considered filing the case away and forgetting it, Kraman said. Instead, the hospital set up a meeting with the relatives and suggested they bring an attorney.

“We disclosed the whole thing,” Kraman said. “We told them we felt they were owed compensation and we wanted to negotiate that with their attorney. Then Ginny Hamm, our attorney, sat down with their attorney, and after a few weeks, they came up with a mutually acceptable settlement.”

The approach worked so well, “we decided that was going to be our model from then on,” Kraman said.

Along the way, the Lexington hospital tracked its results. After 10 years, it compared them to similar VA hospitals. Even though the Lexington VA was voluntarily disclosing and thus had more cases, their payouts proved to be much lower than average.

Kraman and Hamm published those findings in the *Annals of Internal Medicine* and *Fordham Urban Law Journal*. Since then, a number of other hospitals “have started quietly doing this on their own,” Kraman said.

More recent comparisons bear out the VA’s early experience. In

## DOCTORS LOOK AT OTHER OPTIONS TO DEAL WITH RISING MALPRACTICE PREMIUMS

The exodus of insurers from Kentucky plunged Owensboro’s emergency physicians into an especially acute problem last year. The reorganization of Owensboro Medical Health System left the hospital without a Catholic connection and made OMHS doctors ineligible to continue their coverage from Catholic Health Partners. Dr. Robert M. Knight, head of emergency services at OMHS, said that OMHS’s emergency physicians searched without success for an insurer.

### DOCTOR-RUN COMPANIES

Finally, they joined with others to form their own mutual company, Health Care Underwriters of Kentucky. Knight sits on the board of the new company and chairs the Quality Control Department at the hospital.

Knight said he recognizes that the new company may face uphill sledding. He cited actuarial data showing that, nationally, payouts by doctors’ insurers last year amounted to 120 percent of their premium revenue.

Knight’s company is not the first doctor-owned insurer in Kentucky, according to Dr. Donald R. Neel, an Owensboro pediatrician and former president of the Kentucky Medical Association. Neel said the earlier effort foundered because its payouts exceeded its income.

### DOCTORS AS EMPLOYEES

Akron’s Children’s Hospital took a different approach. It is among a growing number that have found a way around crippling insurance premiums for high-risk specialists. Their solution even helps them recruit doctors.

These hospitals hire the physicians outright. Then they set up in-house programs called “captives” to provide liability coverage for their doctors. This not-for-profit arrangement costs the hospitals only about half what traditional insurance companies would have to charge to provide the same coverage.

Hospitals can legally fund such programs based on their own track records instead of the industry-wide losses from which insurance companies must calculate premiums.

### A “NO FAULT” COMPENSATION FUND

University of Kentucky associate professor of economics, Aaron Yelowitz, suggests another model based on the workers’ compensation program, where injured workers receive payment for actual injuries regardless of who is responsible for an on-the-job accident.

While withholding judgment on many issues in the current debate, Yelowitz says there is convincing evidence that doctors do drive up costs by practicing “defensive medicine.”

He said they often run tests with little or no medical value, to be sure they do not overlook something that might later trigger a lawsuit.

2000, the average payouts for pre-trial settlements among all VA hospitals was \$98,000. Settlements at trial averaged \$250,000, and the average judgment when cases were tried and lost was \$450,000.

By comparison, the Lexington VA's average settlement for all cases in 2000 was \$26,000.

Kraman emphasized that the hospital does not offer compensation for bad outcomes that are nobody's fault. "We would fight that, even if somebody was threatening to sue us."

At the same time, the hospital does not require families to waive their right to sue, and encourages them to involve attorneys in the negotiations.

Besides the savings, Kraman said, the program has proved to have other benefits:

- **A self-correcting system.** When doctors are not punished for honest mistakes, they more readily report errors, he said. Administrators and colleagues can quickly take steps to prevent similar incidents in the future.
- **Better physician morale.** "It's very traumatic to a doctor when he makes an error that hurts somebody. They beat themselves up over it ... Knowing that the patient was made whole to the extent possible enabled them to achieve closure as well as the patient."
- **A stronger legal position.** "When a lawyer goes to court with an injured client and a hospital as a defendant, it helps if the hospital has behaved in a way that would not make the average juror angry. Where they've clearly bent over backwards to do the right thing, then you're likely to get what the injury is worth, lost wages, that kind of thing. You're not talking millions of dollars ... We had three cases that went to court and only lost one case in the entire 16 year period."

## A malpractice insurer tries the VA model

A private insurer in Denver has been running a variant of the VA plan as a pilot program. So far, COPIC Insurance Company's "3Rs Program," now in its fourth year, has produced encouraging results, according to Dr. Richert Quinn, its director.

The three Rs stand for Recognize, Respond, and Resolve. Physicians who sign up for the program must agree to report errors and stay in personal contact with the patient if at all possible.

As with the VA, patients accepting settlements need not waive their right to sue. Of the 435 qualifying incidents handled this way in the first three years, COPIC reimbursed only 153 patients. None of the payouts exceeded \$27,000 and the average 3R settlement was \$1,820. (By comparison, the average payout for other settlements

SEE PAGE 20 | MEDICAL MALPRACTICE

Physicians who sign up for the 3Rs program run by COPIC Insurance in Denver, Co., must agree to:

- Report adverse incidents to COPIC themselves and get advance approval to handle qualifying cases via the 3R procedure.
- Speak personally to the patient when reporting or explaining problems—no voice messages, letters, or third party go-betweens.
- Maintain the physician-patient relationship if possible. "This means continued open and honest communication with the patient."
- Work with COPIC to make changes to prevent the same type of occurrence with another patient.
- Attend COPIC's seminar on how to disclose unanticipated outcomes to patients.

## Other Physician Views

While the Kentucky Medical Association has advocated capping non-economic damages in medical malpractice lawsuits, not all doctors agree that such a move would be effective.

### A SAFER SYSTEM

State Sen. Daniel Mongiardo, a Hazard physician, said that if all stakeholders in the malpractice crisis worked together, they could come up with solutions that don't require a constitutional amendment to cap the payments that juries sometimes award when they believe a medical error is egregious.

"We've got to make the hospital system safer for our patients," he said. "That's the bottom line that I'm working on."

At the same time, he said, doctors are naturally frustrated about paying the price for medical errors that are the fault of a system breakdown, not one individual.

"It's like when an airplane crashes due to mechanical error," Mongiardo said. "We're blaming the pilot."

### EXPERT REVIEW PANEL

Besides looking at the SorryWorks model, Mongiardo said, he believes that the state should consider alternatives such as an expert review panel to screen out frivolous cases. He's also interested in exploring a change in court rules to expedite handling of cases. "Cleveland has what they call a 'rocket docket.' They go from filing the case through appeals in 18 months.

"That definitely decreases the cost of litigation. I think everybody would be happy with that," he said.

### INCENTIVE TO BE OPEN

Dr. Steve Kraman of the University of Kentucky, the former chief of staff at the Veterans Administration Hospital in Lexington who advocates the SorryWorks model, contends that capping damages could be counterproductive.

"I think it's a total waste of time and it will not fix the problem," he said. "It will only make some other problems worse, such as patient safety."

The caps wouldn't give hospitals any incentive to be more open about medical errors "and as a result, they can't be adequately investigated and can't be adequately controlled because people are keeping them secret when they really need to be discussed in the open," he said.

"There's no real evidence that those kinds of caps save any real money" and they may also make it harder for patients with legitimate claims to find a lawyer, he said. "It will do nothing to stop frivolous lawsuits, and I'm not even sure there are very many ...

"Unless it appears to be a good case with a potential high judgment, a lawyer won't even take it, because it is not worthwhile. They take these cases on contingency where they put up all the money up front and that averages ... about \$50,000 to pursue a case. Unless they stand a good chance of winning a substantial amount of money, it just isn't worth it.

"So many of these patients harmed by medical errors can't sue because they can't get a lawyer. This is unfair to them and it is not a proper way to take care of a patient, especially when a patient has been injured by a medical error."

# Strengthening SOCIAL SECURITY

by Rodney Berry

Ideology or Economics? Modest Adjustments or Massive Overhaul?

*Will the debate dwell on higher returns and private control of retirement funds or effective and fiscally responsible steps to balance the books?*



# Framing the Issue: Strengthening Social Security

## HISTORY/BACKGROUND

**RESPONSE TO WIDESPREAD POVERTY.** In 1930, millions of senior Americans (65 years or older) had been thrust into poverty following the stock market crash a year earlier. Only 15 percent of American workers were covered by retirement plans. President Franklin D. Roosevelt responded to these conditions by calling for our first national retirement system.

Rather than draw from the federal government's general fund, FDR insisted on a self-financed system. Social Security payroll deductions started in 1937 and the first benefits were paid in 1942.

**EFFECTIVE AND POPULAR.** Opposition from the likes of conservative politician Barry Goldwater, economist Milton Friedman, business giant Henry Ford, and Hearst newspapers did not stem the popularity of the program. By 1960, the senior poverty rate had dropped to 35 percent. Today, less than eight percent of our seniors live in poverty. Without Social Security, officials estimate the senior poverty rate would be 48 percent. (Some groups challenge that conclusion and claim that if Social Security did not exist, people would have more of their own money to invest and save.)

**DRAMATIC DEMOGRAPHIC CHANGES.** In the beginning of the program 10 workers paid taxes to support each retiree. In 1950 there were 16 workers for each Social Security recipient. Now, with 78 million baby boomers nearing retirement, three workers support each retiree. In 2031, one worker will support one retiree.

In 1935, those 65 years or older comprised 5.4 percent of the population. In 2000, it was 12.4 percent. In 2034, there will be 74 million retirees, twice today's 36 million.

Life expectancy was 61 years of age in

1935. Today, a 65 year-old person can expect to live to 82. People are living longer, collecting benefits longer, and having fewer children.

**TAX AND BENEFIT INCREASES.** The initial Social Security payroll tax was two percent of wages. It is now 12.4 percent (divided between employer and employee) up to \$90,000 of income.

Through the years, lawmakers increased benefits; added an early retirement option at 62; added self-employed and agricultural workers, widows, survivors, and disabled individuals as beneficiaries; and increased the eligibility age in phases from 65 to 67.

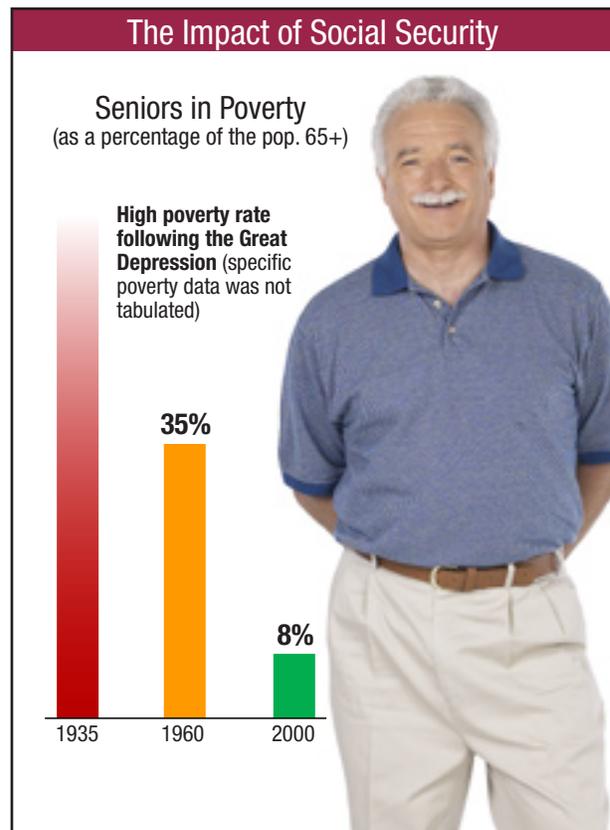
**RELIANCE ON SOCIAL SECURITY.** Today, 53 percent of workers have no pension plan; 32 percent have no savings for retirement. Social Security does not provide, and was not meant to provide, a satisfactory retirement on its own, although 9.4 million Americans (20 percent of Social Security recipients) rely on it exclusively for their retirement income. Social Security payments make up more than half the income of two-thirds of American seniors.

Social Security payroll taxes account for more than 25 percent of all federal revenue and payments represent more than 25 percent

of all federal spending.

Social Security currently pays half a trillion dollars per year in benefits to 47 million beneficiaries. The average benefit for 65 year-old is \$1,184 per month or \$14,000 per year.

*The latest census reports 12,643 Daviess County seniors 65 and older (13.8 percent of the population). More than 2,500 of them rely on Social Security as their only source of income.*



## CURRENT CHALLENGES

**STATUS OF THE FUND.** The current Social Security Trust Fund surplus is \$1.5 trillion. These funds are invested by law in U.S. Treasury securities, considered the safest investment in the world.

**DEFICITS WILL (AND HAVE) OCCURRED.** By 2018, with the increasing number of baby boomers drawing Social Security, there will be a deficit – that is, the federal government will be paying out more than it is taking in through Social Security payroll taxes. If no adjustments are made, in 13 years, it would have to draw on the Trust Fund. Since

1970, there have been 11 years when Social Security operated at a deficit. In those circumstances, bonds were redeemed from the Social Security Trust Fund to cover the difference without complications.

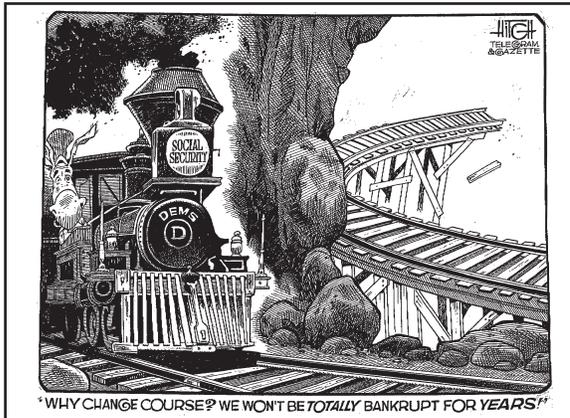
**HOW LONG WOULD THE TRUST FUND LAST?** The Social Security Administration has 40 actuaries on staff. Their best guess: if no adjustments are made, the Trust Fund would be depleted in 2042, although 70 percent of scheduled benefits could still be paid at that point without any increase in Social Security payroll taxes. The Social Security Trustees

estimate that the unfinanced liability is \$3.7 trillion over 75 years.

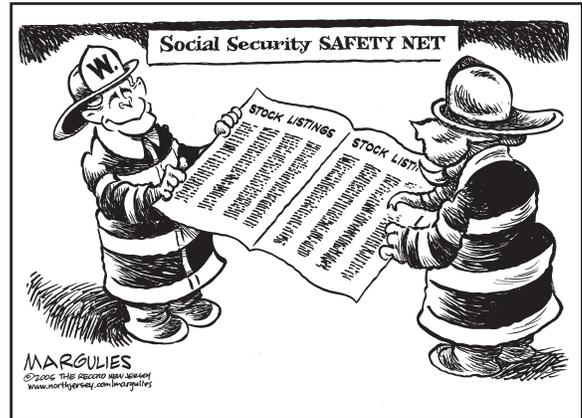
**SOME DISAGREE WITH THESE PROJECTIONS.** Those with more optimistic views project that there will be no need for benefit cuts or payroll tax increases for 75 years. Others, such as the Cato Institute, project a \$26 million unfinanced liability over 75 years.

As challenging as Social Security may be, its future looks sound compared to Medicare.

## Is There a Crisis?



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### YES

“Social Security will be flat bust, bankrupt...unless we act. Social Security is in crisis. The system is broken, and promises are being made that Social Security cannot keep.”

– President George W. Bush

“Only 6.7% of Americans agree that there is no Social Security crisis; 52% believe Social Security is facing major problems.”

– Cato Institute survey

“By 2042, when workers in their mid-20’s begin to retire, the system will be bankrupt – unless we act now to save it.”

– White House Fact Sheet

“The one thing I can say for sure is that if left unattended, the system will be unable to make good on its promises.”

– Joshua Bolten  
Office of Management and Budget

Social Security is like the “Titanic...headed toward an iceberg...a program on the verge of collapse.”

– Stephen Moore, author  
*Bullish on Bush: How George W. Bush’s Ownership Society Will Make America Stronger*

### NO

“The President says Social Security should be reformed because it is in ‘crisis.’ That is an exaggeration. Social Security should not be reformed because there is a crisis but because there is an opportunity.”

– George Will

“Social Security is the most successful domestic program in American history... (however) in its present form, is unsustainable...we should come up with a plan that is different than what President Bush and most of his pundits are proposing.”

– Paul O’Neill  
former U.S. Treasury Secretary

“Some of the information being imparted by governmental officials is not factual, not accurate. There is no immediate crisis.”

– Witold R. Skwierczynski  
President, Social Security Council  
Federation of Government Employees

Social Security “...is solvent long into the future.”

– Dean Baker  
Center for Economic  
Policy Research

“Social Security is not in crisis, but the status quo cannot continue either. But a radical overhaul is not needed.”

– William D. Norvelli, CEO  
AARP

While the Social Security debate intensifies, there appears to be common ground in acknowledging that something should be done, that we are faced with difficult choices, and that it is better to address the issue now rather than later.

# Framing the Issue: Strengthening Social Security

## OPTIONS: WHERE CAN WE GO FROM HERE?

To balance the Social Security books, the simplest options are: **raise the payroll tax; cut benefits; extend the qualifying age.** Other options are gaining momentum while President George W. Bush calls for a restructured system characterized by private accounts. Lawmakers will likely negotiate some combination of these options.

### 1. RAISE THE SOCIAL SECURITY PAYROLL TAX

Currently at 12.4 percent, Social Security Trustees project that the shortfall could be covered by an immediate surcharge of less than two percentage points, less if combined with benefit cuts.

Others, who point to more of a crisis, such as the Cato Institute or Kentucky Representative Anne Northup, estimate that to balance the current system over the next 75 years would require an immediate tax increase of 15 percent or a benefit cut of 13 percent.

Proponents of this option face an uphill battle in that President Bush has made it clear that a Social Security payroll tax increase for anyone 55 years or older is not to be included in any plan he would endorse.

THOSE WHO FAVOR THIS OPTION MAY SAY...	THOSE WHO OPPOSE THIS OPTION MAY SAY...
<ul style="list-style-type: none"> <li>■ The system does not need an overhaul. A modest tax increase is the most responsible way to offset demands on the system due to changing demographics.</li> <li>■ It is better for this generation to absorb a slight tax increase than to pass on the burden of debt to future generations.</li> <li>■ The Social Security Trustees project that if taxes are raised by approximately one percent for employer and employee (to 7.2 percent each), the program would be solvent through 2077.</li> </ul>	<ul style="list-style-type: none"> <li>■ Citizens are already overtaxed. Government should take steps to allow citizens to keep more of their own money to save or invest as they please.</li> <li>■ The burden of this tax increase would fall most heavily on lower and middle-income workers and on future generations.</li> </ul>

### 2. CUT SOCIAL SECURITY BENEFITS

If the more pessimistic projections are accurate – that benefit cuts of 13 percent would be required to close the Social Security shortfall – this option alone may be a difficult one politically, given the strength of the senior (AARP) lobby. The average annual benefit of \$14,000 would dip to \$12,180.

Some officials recommend switching to an inflation index rather than the current wage index for incremental benefit increases.

Many feel there is a need to blend benefit adjustments with tax increases and other options.

President Bush does not support tampering with benefits of anyone 55 years or older.

THOSE WHO FAVOR THIS OPTION MAY SAY...	THOSE WHO OPPOSE THIS OPTION MAY SAY...
<ul style="list-style-type: none"> <li>■ Through the years, Social Security payments have automatically raised with inflation; wages have not.</li> <li>■ Tax policies favor older Americans and many affluent Americans receive Social Security. In 1996, \$15 billion in Social Security benefits went annually to households with retirement incomes of more than \$100,000.</li> <li>■ Our government is paying a lot of older people to stop working and enjoy themselves             <ul style="list-style-type: none"> <li>● 20% of cruise ship passengers are elderly</li> <li>● 17% of casino gamblers are elderly</li> <li>● AARP offers its 35 million members motorcycle insurance</li> </ul> </li> <li>■ Long ago, we should have begun gradually raising eligibility ages and trimming benefits for wealthier retirees. Younger and relatively poorer taxpayers are supporting older and wealthier retirees.</li> </ul>	<ul style="list-style-type: none"> <li>■ Many seniors, particularly those who rely solely on Social Security income, would suffer with benefit cuts.</li> <li>■ Twenty percent of recipients rely solely on Social Security, and nearly half of them live in poverty. Further cuts would be catastrophic.</li> </ul>

# Framing the Issue: Strengthening Social Security

## 3. EXTEND THE QUALIFYING AGE

Things have changed since 1935. People are living longer. Consequently, seniors should not qualify for Social Security benefits until later in life. This would reduce the overall program costs significantly.

Currently, seniors can take early retirement at 62, and the qualifying age has been phased in from 65 to 67.

THOSE WHO FAVOR THIS OPTION MAY SAY...	THOSE WHO OPPOSE THIS OPTION MAY SAY...
<ul style="list-style-type: none"> <li>When Social Security guidelines were established, the life expectancy was nearly two decades less than it is today. Advances in health care, medications, prevention, and fitness are helping seniors live longer, more productive lives.</li> <li>We should encourage seniors to work. Many can make meaningful contributions through work well beyond the current retirement threshold.</li> </ul>	<ul style="list-style-type: none"> <li>Seniors should be rewarded for a lifetime of work and savings. They should have an opportunity to enjoy their retirement years.</li> <li>It would not be fair for the next generation of seniors to enjoy fewer benefits than the current generation.</li> </ul>

## OTHER OPTIONS

### 4. INCREASE THE WAGE LEVEL SUBJECT TO SOCIAL SECURITY PAYROLL TAX

Increasing the wage cap that is subject to Social Security payroll taxes from \$90,000 to \$200,000 would raise nearly \$1 trillion over a decade. Someone at that wage level would pay \$6,820 more per year in Social Security payroll taxes, and the employer would be required to match it. Six percent of American workers earn more than \$90,000 per year. In 2005, \$845 billion in payroll will not be taxed by Social Security.

AARP recommends raising the cap from \$90,000 in 2005 to \$140,000, phased in over decade. They project that this step would lower the shortfall by 43%.

### 5. INCREASE THE RETURN ON SOCIAL SECURITY

Rather than limit Social Security Trust Funds to investments in U.S. Treasuries, diversify into conservative stocks and mutual funds for a higher return. This could close the projected shortfall and eliminate the need to raise taxes or reduce benefits. AARP projects that this step would solve 15 percent of the problem.

### 6. MAKE RETIREMENT PLANNING MANDATORY

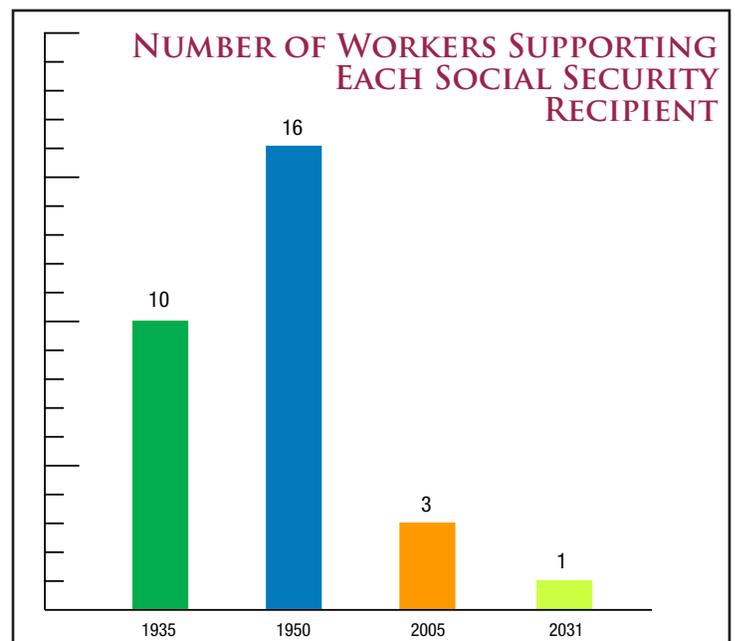
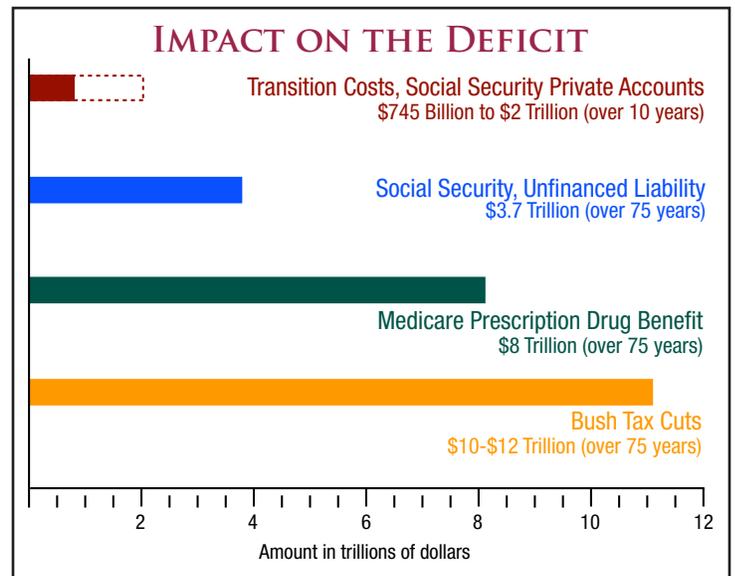
Former U.S. Treasury Secretary Paul O'Neill promotes a process that will produce at least a \$1 million annuity for every American at retirement age. He suggests shifting the 12.4 percent Social Security tax into a mandatory savings account that would begin when citizens enter the workforce.

### 7. CONVERT THE SOCIAL SECURITY SYSTEM TO A VOLUNTARY ONE

If Social Security were converted to a voluntary system, many would opt out and retain funds that otherwise are extracted for Social Security taxes. They would have 6.2 percent more discretionary funds to save and invest. Over time, compound interest would produce a larger retirement fund than the current system, and at the same time, reduce the size and cost of the Social Security program.

### 8. BRING MORE WORKERS INTO THE SYSTEM

Approximately seven million local and state employees are not covered by Social Security. Bringing them into the system would strengthen it.



## The President's Plan: Restructure Social Security with Private Accounts

**NOT A NEW IDEA.** During the mid-80's and early 90's, when Congress could not keep its hands off of the Social Security Trust Fund, fiscally prudent legislators proposed individual Social Security accounts as a means to protect the funds for the intended use. Private accounts were debated in presidential campaigns and were soon embraced by fiscal conservatives in both parties.

**PLAN STILL DEVELOPING.** Details of President Bush's plan are largely unresolved, and except for his insistence that the Social Security payroll tax on anyone 55 or older not be increased, he claims that "everything is on the table."



President George W. Bush leads a discussion on strengthening Social Security at the Pease International Tradeport Airport (New Hampshire), Wednesday, Feb. 16, 2005.

### KEY ELEMENTS OF THE PLAN

The President proposes the following:

**1. PRIVATE ACCOUNTS** Younger workers (born after 1949) would be given the option to divert up to a third (4 percent) of their Social Security payroll tax up to \$1,000 (to rise \$100 per year) into private, or personal, stock and bond accounts.

**2. INVESTMENT CHOICE** The private account holder would choose from three investment options, all managed under a government contract.

**3. RETAIN SOCIAL SECURITY ACCOUNT** After the 4 percent is diverted, the 8.4 percent balance of the current 12.4 percent Social Security payroll tax would be retained in a Social Security account as before.

**4. REDUCED BENEFITS** In exchange for the opportunity to earn a higher

return on the 4 percent private account, when they retire, the private account holders would get a smaller pension from Social Security (to be determined) along with their portfolios from their private accounts.

**5. PROTECTED UNTIL RETIREMENT** The private account portfolio would not be available until retirement. It could be used to increase monthly benefits or as a lump sum supplement.

**6. FORMULA ADJUSTMENTS** Future benefit increases would be linked to inflation instead of wages (which generally increase faster than inflation).

**7. TRANSITION** The plan would be phased in from 2009 through 2011.

**8. AN ASSET THAT CAN BE PASSED ON** Private account portfolios would be owned by citizens and could be bequeathed to loved ones at death.

#### THOSE WHO SUPPORT PRESIDENT BUSH SAY...

##### The Plan Advances President Bush's "Ownership Society" Agenda

- Giving people ownership of their savings is a good thing in its own right. It will empower workers, lessen dependence on government, and encourage citizens to save. People should be allowed to invest their own money, not the government.
- It is right to start now before the huge baby-boom generation starts to retire.
- The plan could be a model for Medicare reform, which is even more pressing but politically difficult. The plan opens the door to reform other entitlement programs.
- Other countries have used private accounts successfully for years.

##### A Better Deal, Greater Security

- Stock and bond investments offer greater returns than U.S. Treasuries.
- An average return after inflation and expenses should be 4.7% - significantly better than the 3.5% after inflation the trust fund currently earns.
- A dollar a year invested for the next 37 years (until 2042) at 3 percent interest produces \$66. At 4.7 percent, \$95.
- A death benefit would allow private accounts to be passed on to loved ones.

##### Safeguards Are Included

- The plan includes rules against risky behavior: there would be limited investment choices; funds could not be withdrawn before retirement or borrowed against.

##### Will Ultimately Save Money

- The government would see its revenues fall in the short term, but its future liabilities would be lower also.

#### THOSE WHO OPPOSE PRESIDENT BUSH SAY...

##### The Plan Does Not Address the Key Issue

- Private accounts will do very little, if anything, to address the Social Security shortfall.
- Wall Street, not retirees, would be the real beneficiaries.

##### The Plan Creates Enormous New Debt

- Since money diverted into private accounts would not be available to pay benefits to current retirees, the government would have to borrow to pay people now.
- Upfront transition costs will add \$754 billion to government borrowing over ten years (some project even greater debt). This could upset financial markets and drive up interest rates.
- The long-term burden of President Bush's first term tax cuts and spending increases is three times larger than the looming Social Security shortfall.

##### The Plan Would Not Increase National Savings

- Our nation's savings rate will not improve because any increase in private savings will be offset by higher public borrowing.

##### The Plan Is Too Risky

- The stock market is too volatile for a national program intended to provide base level security for seniors. The market has performed below 3 percent per annum in nine different 20-year periods.
- If future benefits are tied to inflation instead of wages, retirees will not see the incremental increases they've had in the past and it will hurt the poor.
- Every time someone shifts a Social Security dollar into a private account, someone else must be persuaded to take a dollar currently invested in the private economy and place it in government bonds.



## THE COST

**Why would President Bush's plan cost so much?**

Benefits to current retirees are paid by Social Security taxes of current workers. When these workers begin diverting a third of the revenue for the Social Security Fund into private accounts that the government cannot redistribute to current retirees, the government will have to borrow funds to pay current retirees.

The Bush Administration estimates these transition costs will add \$754 billion to government borrowing over 10 years; critics project that cost to be \$1 to \$2 trillion.

The nonpartisan Congressional Budget Office projects that if the 2001 and 2003 tax cuts are made permanent, the cost over 75 years will be more than five times the Social Security shortfall over this period.

### National Retirement Private Accounts in Other Countries

Country	When Private Accounts Established
Singapore	1955
Chile	1981
Great Britain	1988
Argentina	1995
Bolivia	1997
Sweden	2000

### Public Opinion

**NBC Poll (January 2005)**  
 President Bush has a mandate to overhaul Social Security: 33%  
 President Bush does not have a mandate to overhaul Social Security: 56%

**Zogby International Poll (for the Cato Institute, February 2005)**  
 A majority of Americans agree that younger workers should be allowed to invest a portion of their Social Security taxes in individual accounts.

## Supporting the President:

(The President's plan is the linchpin) "from an entitlement society to an ownership society"

– Stephen Moore, author  
*Bullish on Bush: How George W. Bush's  
 Ownership Society Will Make America Stronger*

"If you're going to move to private accounts, which I approve of, I think you have to do it in a cautious, gradual way."

– Alan Greenspan  
 Federal Reserve Chairman

"Personal accounts will respect individual autonomy and competence... Personal accounts will narrow the wealth gap by facilitating the accumulation of wealth by pensions of modest means – bequeathable wealth."

– George Will

"Anti-choice pundits are missing the fundamental point about personal retirement accounts: it's about owning your own retirement savings...the government cannot touch it...it's yours to pass on to your kids and grandkids."

– Cato Institute

"Several countries have enacted Social Security reforms that allow workers to invest some of their Social Security contributions in private savings plans. These efforts are proving to be both popular and successful."

– Social Security Reform Center

### FOR IT:

Cato Institute ([www.socialsecurity.org](http://www.socialsecurity.org))  
 Citizens for a Sound Economy ([www.cse.org](http://www.cse.org))  
 For Our Grandchildren ([www.fourourgrandchildren.org](http://www.fourourgrandchildren.org))  
 Generations Together ([www.generationstogether.net](http://www.generationstogether.net))  
 Heritage Foundation ([www.heritage.org](http://www.heritage.org))  
 Social Security Choice ([www.socialsecuritychoice.org](http://www.socialsecuritychoice.org))  
 United State Seniors Association ([www.unitedseniors.org](http://www.unitedseniors.org))  
 USA Next ([usanext.org](http://usanext.org))  
 The White House ([www.whitehouse.gov/infous/social-security](http://www.whitehouse.gov/infous/social-security))

## Opposing the President:

"...in his zeal to privatize Social Security – a quest which is driven more by ideology than economics – president Bush is obscuring better approaches to a comfortable retirement for all Americans."

– *New York Times* Editorial

"Our President's determination to partially privatize Social Security...is less a matter of economics than ideology. It's anti-government and pro-market ideology. Bush's 'ownership society' is an 'on-your-own society.'"

– Ellen Goodman

"By the time privatization started to save money, if it ever did, the federal government would run up around \$15 trillion in extra debt."

– Paul Krugman

"As the President proposes to 'reform' Social Security, it's notable that the state he served as governor leads the nation in senior poverty, with 17.3 percent of the elderly living beneath the poverty line."

– Harold Meyerson

"Taking some of the money these workers pay into the system and diverting it into newly created private accounts would weaken Social Security and put benefits for future generations at risk."

– Marie Smith, AARP President

### AGAINST IT:

American Association of Retired Persons (AARP) [www.aarp.org/socialsecurity](http://www.aarp.org/socialsecurity)  
 AFL-CIO ([www.aflcio.org](http://www.aflcio.org))  
 Campaign for America's Future ([www.ourfuture.org](http://www.ourfuture.org))  
 Catholic Charities, USA ([www.catholiccharitiesUSA.org](http://www.catholiccharitiesUSA.org))  
 MoveOn ([www.moveon.org](http://www.moveon.org))  
 Rock the Vote ([www.rockthevote.com](http://www.rockthevote.com))  
 Urban Institute ([www.urban.org](http://www.urban.org))  
 U.S. Action ([www.usaction.org](http://www.usaction.org))

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## LEARN MORE/GET INVOLVED

Center on Budget and Policy Priorities ([www.cbpp.org](http://www.cbpp.org))  
The Century Foundation ([www.socsec.org](http://www.socsec.org))  
The Concord Coalition ([www.concordcoalition.org/socialsecurity](http://www.concordcoalition.org/socialsecurity))  
Social Security Reform Center ([www.socialsecurityreform.org](http://www.socialsecurityreform.org))  
Government Accountability Office ([www.gao.gov](http://www.gao.gov))

## SHARE VIEWS

President George W. Bush ([www.whitehouse.gov](http://www.whitehouse.gov))  
Senator Mitch McConnell ([www.mcconnell.senate.gov](http://www.mcconnell.senate.gov))  
Senator Jim Bunning ([www.bunning.senate.gov](http://www.bunning.senate.gov))  
Representative Ron Lewis ([www.house.gov/ronlewis](http://www.house.gov/ronlewis))



“Any Social Security reform plan should be designed to meet three fundamental objectives – ensuring Social Security’s long-term fiscal sustainability, raising national savings, and improving the system’s generational equity... Meeting these objectives will require hard choices and trade-offs. There is no free lunch.”

Concord Coalition

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# CHCA TAKES *Five*

*by Susan Sommerfeldt*

*Advocacy group targets five issues in '05*

Retiree James Constant joined Citizens Health Care Advocates (CHCA) when the nonprofit organization was formed three years ago partly because of his concerns about his rising health insurance premiums.

But he was also concerned that other citizens like himself have a voice when decisions were made locally that affected their health care, including its costs.

That has been the mission of CHCA from the beginning. And the group will do even more to raise questions and get answers in 2005, said Dale Taylor, CHCA chair. Taylor is vice president of human resources at WaxWorks/VideoWorks.

This year, CHCA will set up committees to focus on five areas, Taylor said. The areas are access to health care, healthy lifestyles, governmental affairs, health care costs and organizational development. The committees will be led by teams of CHCA board members, he said.

"This is an extremely aggressive and ambitious approach and I am so very proud of our board for their vision and commitment," he said.

CHCA's work in 2005 will also get a boost from a \$5,000 grant from the Foundation for a Healthy Kentucky, a statewide organization which encourages community efforts to improve health care. The grant is in addition to financial support that CHCA receives from the Public Life Foundation of Owensboro (PLFO).

Carol Ireson, a professor of public health at the University of Kentucky who has worked with the Public Life Foundation on health care research, said CHCA is a model for other communities in the state.

"To my knowledge this is the only such citizens group that looks at the health care needs in a local community," she said.

At the same time, CHCA was recently asked to nominate a member for a board seat at Owensboro Medical Health System. That doesn't mean the CHCA nominee will be chosen – but it does mean its work is being recognized by medical providers in the community.

"I certainly think that a group such as this has the potential to educate the public and rally support for important issues," said Debby Neel, vice president of the OMHS HealthPark.

CHCA was created following a health needs assessment in 2000 initiated by the Public Life Foundation and completed by Ireson and others at UK. It revealed that health care access, costs and associated problems were a major concern of citizens in the region.

The next year, PLFO launched the People's Health Project to gather more information from citizens. The project included 52 moderated forums throughout the community and involved more than 600 participants.

From this process, CHCA emerged in 2002. The idea was for the organization to continue encouraging citizen dialogue – and action – on health care issues. "It's easy to complain – but things change when people are willing to get involved," said Rosemary Lawson, the group's first chair.

The group immediately focused on health care access, collaborating with other community groups on how to lower prescription drug costs and find primary care physicians for the poor and uninsured. Among other things, CHCA developed and distrib-



# Citizens Speak: LEADERS RESPOND

## Tobacco tax finally increased, reduced amount disappoints advocates.

### Most favor major increase

Kentucky citizens expressed more support for an increase in the tobacco excise tax than legislators were willing to adopt into law. In a *Courier-Journal* Bluegrass Poll of adults conducted between February 3-9, 67.6 percent said that the proposal to increase the current 3 percent tax by 31 cents to 34 cents was “about right” or “too little.” Only 28.7 percent said the proposal was “too much.” When asked how much tobacco taxes should be increased, 66.5 percent endorsed an amount at or above the proposed 34-cent tax.

### Legislators compromise

Nevertheless, members of the Kentucky General Assembly reduced the 34-cent proposal to 29 cents, a 26-cent increase. Another 1-cent increase, with the \$5-6 million in revenue it would produce, was added and restricted to cancer research.

### Border counties influential

Pressure from business interests, particularly cigarette retailers along Kentucky’s borders, is credited with this reduction in the planned increase.

### More support from urban areas

Of the 75 percent who support a cigarette tax increase, 84 percent are urban residents, 72 percent are rural.

### Coalition mobilizes

Citizens responding to polls are not the only source of information provided lawmakers on this issue. The Campaign for Tobacco-Free Kids launched an intensive effort to inform the public of use

trends and its impact on youth health and industry costs.

They report that in Kentucky, 33.4 percent of high school girls smoke cigarettes, compared to 31.8 percent of high school boys (although 23.5 percent of high school boys use smokeless tobacco).

The Campaign estimates that 12,500 Kentucky youth less than 18 years of age become smokers every year. They purchase or smoke 18.4 million packs annually, and 363,000 youth are exposed to second-hand smoke at home.

### Effect on health care costs

An estimated \$1.38 billion is spent on health care in Kentucky annually that is directly attributed to tobacco use. Smoking-caused health care costs total \$7.18 per pack.

### Effect on consumption

Studies from the U.S. Center for Disease Control conclude that a 50-cent increase in the per pack price of cigarettes will reduce consumption by 9 percent.

### Kentucky no where near national average

Apparently, this data is not compelling enough to bring legislators to increase the Kentucky tax anywhere near the 50-cent surrounding state average. The average state cigarette tax rate is 84 cents. The current range: \$2.46 in Rhode Island to Kentucky’s 3 cent tax. When increased to 30 cents, only four states will have lower cigarette taxes than Kentucky.

*The C-J Bluegrass Poll of 801 adults has a margin of error of plus or minus 3.5 percent.*

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## CHCA

continued from page 17

uted directories of local health centers and primary care doctors.

At the same time, the group began sponsoring monthly programs on a variety of health care topics; they are later aired on OTCV Channel 51.

CHCA also initiated community forums on matters of special interest. For instance in 2003, when Owensboro Mercy Health System announced it would buy out Catholic Healthcare Partners, CHCA approached the hospital about seeking citizen input.

The hospital’s executive committee agreed to a series of open forums which were facilitated by Dale Taylor. During the forums, hospital board members explained and answered questions about the buyout and listened to citizen comments.

Then during the 2004 Kentucky General Assembly session, CHCA helped sponsor a community forum on proposed increases in

the tobacco tax. The forum included proponents of raising the tax as well as a local tobacco farmer who was concerned about the impact of such a tax on his livelihood.

CHCA later issued its first “action alert” asking local citizens to contact elected officials to share their views about the tobacco tax.

Finally, every year CHCA recognizes people who go the extra mile in providing health care to the poor and uninsured through the R.C. Neblett Service Award/Salute to Health Care Professionals. Dr. Neblett was an African-American physician who provided charity care in Owensboro many years ago.

Currently the CHCA board includes business owners, human resource professionals, nonprofit directors of various agencies, a physician’s assistant, a pharmacist, a postal worker, and retirees. The Public Life Foundation provides staff support from project manager Beverly Mills and a small amount of grant money. John Hager, founder of the PLFO, and Rodney Berry, PLFO president, do not hold positions on the board and do not have a vote. ■



# MARCH/APRIL Public AGENDA

Meetings, hearings, and forums open to the public. Please contact us if your organization would like its events listed by calling 685-2652 or sending an email to [info@pifo.org](mailto:info@pifo.org). (Meetings are subject to change.)

## Important Upcoming Public Meetings

### MARCH

- 7 City-County Work Session on Major Capital Projects**  
1:30 p.m.  
City Hall
- 14 Owensboro Board of Education**  
4, 5, 6:30 & 7:30 p.m.  
Presentations by Architectural Firms  
OHS Gymnasium, Auditorium and  
misc. renovations (\$13 million)
- 16 City-County Unification Task Force**  
6:30 p.m.  
GRADD

### APRIL

- 6 City-County Unification Task Force**  
6:30 p.m.  
GRADD
- 20 City-County Unification Task Force**  
6:30 p.m.  
GRADD
- 23 PRIDE Day**  
(Rain Date: April 30)  
Various times  
Various locations  
For information contact:  
Liz Seibert 685-2652

## Regularly Scheduled Public Meetings

*Meeting Dates and Times Subject to Change*

**Citizens Health Care Advocate**  
Second Thursday each month  
5:30 p.m.  
GRDHD, Bedford-Walker Community Room

**Daviess County Board of Education**  
Third Thursday each month  
6:00 p.m.  
1622 Southeastern Parkway

**Daviess County Fiscal Court**  
First and Third Thursday each month  
4:00 p.m.  
Daviess County Courthouse

**Greater Owensboro Chamber of Commerce "Rooster Booster" Breakfast**  
First Thursday each month  
7:30 a.m.  
Executive Inn

**Green River Health Council**  
Second Tuesday every other month (Feb, Apr, June, Aug, Oct, Dec)  
10:00 a.m.  
GRADD

### Neighborhood Alliance Meetings

**Apollo Area Alliance**  
Fourth Tuesday each month  
5:30 p.m.  
Apollo Heights Baptist Church.

**Audubon Bon Harbor Area Alliance**  
Second Monday each month  
6:30 p.m.  
Audubon Church of the Nazarene

**Dogwood Azalea Neighborhood Alliance**  
Third Thursday each month  
5:30 p.m.  
Daviess County Public Library.

**Dugan Best Neighborhood Alliance**  
Fourth Tuesday each month  
6:00 p.m.  
Dugan Best Recreation Center

**Hillcrest Area Alliance**  
Second Tuesday each month  
6:30 p.m.  
Daviess County High School Media Center

**Midtown East Neighborhood Alliance**  
First Thursday each month  
5 p.m.  
Buena Vista Baptist Church

**Northwest Neighborhood Alliance**  
Fourth Tuesday each month  
5:30 p.m.  
English Park Center

**Old Owensboro Neighborhood Alliance**  
Second Tuesday each month  
5:30 p.m.  
Brescia University Campus Center

**Seven Hills Neighborhood Alliance**  
First Thursday each month  
7:00 p.m.  
Trinity United Methodist Church

**Shifley-York Neighborhood Alliance**  
Second Tuesday each month  
5:30 p.m.  
Lewis Lane Baptist Church

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# The TRACKER

DATA OF INTEREST



Compiled by  
Chad M. Gesser

## THE MEDICAL MALPRACTICE DEBATE

### DATA PROMOTED BY PHYSICIANS:

- According to the Kentucky Medical Association, 819 doctors left the state during 2001 and 2002.
- Of the 1,273 physicians who left Kentucky as of 2003, 31% went to neighboring states such as Indiana, Ohio and Tennessee, where insurance premiums are, on average, lower.
- Eighty-two of Kentucky's 100 counties have no obstetricians – or just one.
- Medical malpractice costs have risen an average of 11.6% a year since 1975 in contrast to an average annual increase of 9.4% for overall tort costs.
- A poll conducted by the *Courier Journal* in early 2004 found that 68% of Kentuckians favor a limit on malpractice awards.
- 78% of responders from Northern Kentucky favored limits; 77% in South central Kentucky; 70% in Western Kentucky and the Bluegrass area; 67% in Louisville and 56% in Eastern Kentucky.
- The annual cost of medical malpractice insurance to Kentucky's health care providers is \$81.8 million.
- According to the federal government's National Practitioner Data Bank, 4.7% of Kentucky's doctors have been responsible for 49.9% of all malpractice payouts to patients.
- In Kentucky, 83.3% of doctors have not made a medical malpractice payout since September 1990.

### DATA PROMOTED BY TRIAL ATTORNEYS:

- Kentucky's median malpractice payout in 2002 was only half what it was in 1995.
- The total dollar amount of malpractice payouts in Kentucky declined 4.1% from 1995 to 2002.
- In Kentucky, there were five medical malpractice payouts exceeding \$1 million in 2002, compared with six payouts in 1995. The average number of payouts of \$1 million or more during the past eight years has been 3.2 annually.
- The Kentucky Board of Medical Licensure reports a decrease of 19 doctors for that two-year period.

*continued on pg. 21*

## Public AGENDA, cont.

### **Southeast Alliance**

Second Thursday each month  
6:30 p.m.  
Newton Parrish Elementary School

### **Wesleyan-Shawnee Neighborhood Alliance**

Fourth Tuesday each month  
6 p.m.  
Kentucky Wesleyan College, Administration  
Building, Room 103

### **Owensboro Board of Education**

Fourth Thursday each month  
4:30 p.m.  
Boardroom

### **Owensboro City Commission**

First and Third Tuesday each month  
5:00 p.m.  
City Hall

### **Owensboro-Daviess County Regional Airport**

Third Monday of each month  
4:30 p.m.  
Airport terminal building conference room

### **Owensboro Historic Preservation Board & Downtown Design Review Commission**

Fourth Wednesday each month  
5:00 p.m.  
City Hall

### **Owensboro Housing Authority**

Fourth Thursday each month  
11:30 a.m.  
2161 E. 19th St.

### **Owensboro Metropolitan Board of Adjustment**

First Thursday each month  
6:00 p.m.  
City Hall

### **Owensboro Metropolitan Planning Commission**

Second Thursday each month  
6:00 p.m.  
City Hall

### **Owensboro Riverport Authority**

Fourth Friday each month  
12:00 p.m.  
1771 River Road

### **Owensboro Utility Commission**

Third Thursday each month  
4:00 p.m.  
2070 Tamarack Rd., Third floor board room

### **Preservation Alliance of Owensboro-Daviess County, Inc.**

First Friday every other month (Feb, Apr, June,  
Aug, Oct, Dec)  
12:00 p.m.  
Campbell Club

### **RWRA**

Third Monday of each month (except January,  
Fourth Monday)  
3:30 p.m.  
RWRA, 1722 Pleasant Valley Road

### **Tobacco Control Coalition**

Fourth Wednesday each month  
11:30 a.m.  
GRDHD

### **Tourism & Convention Bureau**

Third Thursday each month  
7:45 a.m.  
215 E. Second St.

## MEDICAL MALPRACTICE

continued from page 8

by the insurer was \$78,741). Not one case went to litigation.

What accounts for the results? When an unanticipated incident occurs, Quinn said, "The patient experiences three kinds of trauma, all at once: emotional, physical, and financial."

Keeping the doctor/patient relationship intact, he said, makes patients less likely to attribute every bad outcome to standard care and more likely to see what happened as "a forgivable mistake."

### **What's happening in Illinois**

Kraman's VA program also caught the attention of Doug Wojcieszak of Illinois, whose 39-year-old brother died during surgery after doctors repeatedly misdiagnosed his heart attacks. Afterward, Wojcieszak's family could get no information from his brother's medical providers.

"They just cut the family off. Nobody talked to us. Records were not forthcoming. Nothing. Until after the case was settled a year and half later and money had changed hands. Then they talked."

Wojcieszak, however, was not just another angry relative.

He was a staff member of the Illinois General Assembly, accustomed to working on public policy issues. He understood the pressures that made doctors unwilling to talk to his family about their mistakes.

Determined to relieve those pressures, Wojcieszak first lobbied for limits on damages from malpractice lawsuits along the lines now proposed by the Bush administration. But Kraman's approach, he decided, was much better.

Wojcieszak launched the SorryWorks Coalition, and it succeeded in convincing the Illinois Senate to pass the bill for pilot programs at two hospitals. If the bill becomes law, the participating hospitals could try the SorryWorks program with no financial risk. The state would pay the difference if settlement costs during the trial period exceeded the hospitals' average for the past five years.

At present, the Illinois Medical Association and the Illinois Trial Lawyers have introduced bills pushing competing plans for medical reform. Both contain provisions for funding the SorryWorks pilot programs. ■

## ABOUT THE PUBLICATION

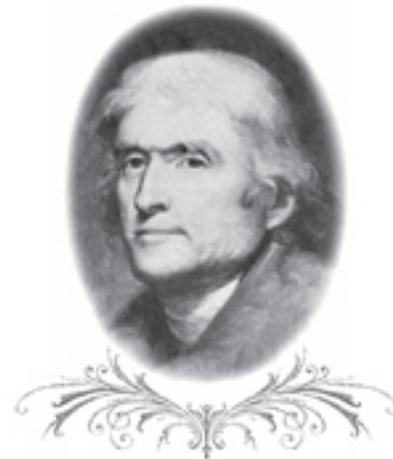
The *Public Life Advocate*, published monthly, is committed to be a trusted resource of information and analysis of public concerns and community issues. The *Advocate* is a community-driven publication, grounded in a commitment to be "of the people, by the people, and for the people."

## ABOUT THE FOUNDATION

The Public Life Foundation of Owensboro, Inc. is a private, nonpartisan, nonprofit 501(c) operating foundation (not a grant-making entity) founded in 1996 by John and Marjorie Hager. Mr. Hager is the former owner, editor, and publisher of the Owensboro *Messenger-Inquirer*.

The foundation fosters broad, meaningful citizen participation in community decisions and public policy. We believe that open, accessible, and trustful institutions are essential to an enlightened and engaged citizenry and the democratic process.

Foundation activities are driven by the importance that people attach to issues. We are committed to the people's agenda. To assist citizens in solving problems and seizing opportunities, we facilitate a process of information > deliberation > action.



*"I know of no safe  
depository of the ultimate  
powers of society but the  
people themselves; and if  
we think them not  
enlightened enough to  
exercise their control with  
a wholesome discretion,  
the remedy is not to take  
it from them, but to inform  
their discretion by education."*

*Thomas Jefferson*



# Citizen Action UPDATE

The Public Life Foundation promotes broad and meaningful citizen participation in community decision making and public policy. Grass roots action is a reflection of an informed, engaged, empowered citizenry. We welcome updates from all citizen initiatives, whether an established organization or an ad hoc group. Contact us at 685-2652 or [info@plfo.org](mailto:info@plfo.org).

## Bring Back Baseball Committee

**Bruce Brubaker, Chair**  
[bbrubaker@champion-ford.com](mailto:bbrubaker@champion-ford.com)

- planning to proceed with stadium financing plans once a site is selected
- considering a Frontier League affiliation (the same league in which the Evansville Otters compete)
- conducted market study to confirm community interest
- through pro bono services of RBS Design, developed preliminary stadium design prototype

## The Citizens Committee on Education

**Marianne Smith Edge, Co-Chair**  
[msedge@smithedge.com](mailto:msedge@smithedge.com)  
**Forrest Roberts, Co-Chair**  
[robroad@adelphia.net](mailto:robroad@adelphia.net)

- planning a series of forums to solicit public input on rough draft of community plan for higher education
- received a \$10,000 grant from the state Department of Education in support of "The Learning Community," a program to instill a higher value of education and lifelong learning into the fabric of community life

## Citizens Health Care Advocates

**Dale Taylor, Chair**  
[dalet@www.com](mailto:dalet@www.com)

Meetings: 2nd Thursday of each month, 5:30 p.m., Green River District Health Department

- encouraged state legislators to support proposals to help small businesses provide health insurance for their employees
- adopted "Five Fields of Focus" for 2005:
  - access to health care
  - healthy lifestyles
  - governmental affairs
  - health care costs
  - organizational development
- heard a report on a poll of community attitudes regarding second-hand smoke
- CHCA now has 103 members and meetings are broadcast on OCTV.

## Goodfellows Club

**Barry Carden, President**  
[bcarden@messenger-inquirer.com](mailto:bcarden@messenger-inquirer.com)

- concluded successful 2004 "Roll Call" campaign, raising \$97,000.
- contributing funds for winter coats, shoes and clothing as requested by school social workers
- making plans for Spring benefit tennis tournament

## Maceo Concerned Citizens

**Patsy Hawes Gordon**  
 10038 Kelly Cemetery Road, Maceo, KY 42355

- tracking the cleanup and sealing treatment of a former hazardous waste "Super Fund" disposal site near Maceo in east Daviess County.
- promoting nearby wooded areas as a possible public park.

## Owensboro Area World Affairs Council

**Rodney Berry**  
[rodney.berry@plfo.org](mailto:rodney.berry@plfo.org)

Board meetings: 4th Thursday, 11:30 a.m., Kentucky Wesleyan College

- recently adopted bylaws and recruited its first board of directors. Officers will be elected by the board during March meeting.
- identifying program opportunities for 2005: speakers, panels, films, etc.

## PRIDE

**Susie Tyler, President**  
[grand.view@adelphia.net](mailto:grand.view@adelphia.net)

- planning PRIDE Day on April 23
- developing master plan from citizen input on new community entrance from the Natcher Bridge and West Parrish Avenue from the airport
- meet regularly with architects of proposed projects
- meet regularly with engineers and utility representatives regarding planned transportation and other public projects.
- conducting historic home tours as a fund-raiser.

## Unity Coalition

**David Kelly, President**  
[davak@bellsouth.net](mailto:davak@bellsouth.net)

- heard a presentation by Jana Beth Francis on "Mix it Up," a program to enhance race-ethnic relations in our schools
- planning future programs: speakers, panels and film discussions

## The TRACKER

DATA OF INTEREST  
*continued from pg. 19*

- Kentucky's ratio of doctors-to-residents has grown at a rate exceeding that of Indiana, Missouri, Ohio and Tennessee – including some states that impose malpractice caps.
- An estimated 600 to 1,400 hospital deaths in Kentucky each year occur due to preventable medical errors – costing residents, families and communities \$244 million to \$416 million each year.
- As of early 2004, 12% of Kentucky doctors (17 of 141) who made three or more malpractice payouts since 1990 were disciplined by the Kentucky Board of Medical Licensure. Only 20 percent (11 of 55) who made four or more malpractice payouts were disciplined.
- On average, medical malpractice insurance comprises 2.8% of a Kentucky doctor's income.

This Index and other items of interest can be found at The Owensboro Blog: <http://owensboro.blogspot.com>

*Chad Gesser is Director of Institutional Research at Owensboro Community and Technical College. He holds a master's degree in sociology from Western Kentucky University.*