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letters to the editor

OF BUREAUCRATS AND BEDSORES

Ramesh Ponnuru obviously does not want to let the facts get in the way of a good story; his article "Social Injustice" (August 29) begs for correction.

First, the Florida nursing-home bankruptcies were not caused by frivolous lawsuits or runaway verdicts. They resulted from changes in reimbursement in the Medicare and Medicaid systems, associated with Congress's passage of the Balanced Budget Act of 1997, which was a response to massive fraud and abuse by the nursing-home providers of the government-funded system. When Congress put the brakes on the industry's fraudulent practices, high-flying nursing-home chains could not service the massive debt they used to fuel their dramatic growth in the 1990s. Their problems were compounded by executives who looted their corporations for perks and compensation.

Second, caps on damages significantly infringe on the right to a trial by jury. If the pending medical-practice bill is adopted by Congress, the verdicts and judgments of local juries that hear evidence in particular cases will be overridden by the dictates of deskbound Washington bureaucrats, who have never heard the facts of any specific case. The bill has rightly been characterized as "affirmative action for wrongdoers," since the perpetrators of wrongful acts will no longer have to be fully accountable.

Third, pressure sores are not the inevitable consequence of old age or ill health. And, unlike Ponnuru's claim, they are not "hard to avoid" when proper care is given.

Finally, considering the revelations from the Vioxx scandal, do we really think that FDA approval should immunize drug manufacturers against liability for punitive damages? The testimony of FDA employees suggests that the agency is much more interested in protecting the profits of drug companies than the health of the people who consume their products.

Ponnuru is right to decry any form of bearing false witness. He needs to be careful, however, to avoid the very conduct he criticizes.

*Ken Connor
Washington, D.C.*

RAMESH PONNURU REPLIES: Several factors contributed to the nursing-home bankruptcies in Florida. The state's trial-lawyer-friendly laws were one of them—as the legislature clearly believed when it changed them. Connor does not even begin to demonstrate otherwise.

The bill's damage cap is set by federal legislators, not bureaucrats, and state legislators can opt out of them. The right to a jury trial does not allow juries to disregard the law.

Does Connor really want to argue that Christopher Reeve had substandard care? Many bedsores can be avoided, but even the

best nursing homes will have some—and they are not proof of misconduct.

This is not the place to debate the conventional journalistic/trial-lawyer wisdom on Vioxx. But the FDA harms more people by keeping products off the market than by letting them be sold.

Finally, my comment about "bearing false witness" had to do with the use of the courts falsely to accuse people and firms of causing injuries and deaths. I have not accused Connor of anything other than being wrongheaded—a charge that his ill-tempered letter amply corroborates.

WIT, HUMOR, WEEDS

Richard Brookhiser's column "Upstate Burgeoning" (August 29) is a sheer delight: vegetables and weeds and Frost and Whitman frolicking together on one neat page, a flowing fountain of good wit and good humor. It made my morning—actually, more than one morning, since I'll clip it out and reread it, now and then.

*Mary Wolan
Jacksonville Beach, Fla.*

