

WISCONSIN STATE
LEGISLATURE
COMMITTEE HEARING
RECORDS

2005-06

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on
Insurance
(AC-In)

(Form Updated: 11/20/2008)

COMMITTEE NOTICES ...

➤ Committee Reports ... CR

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➤ Executive Sessions ... ES

**

➤ Public Hearings ... PH

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➤ Record of Comm. Proceedings ... RCP

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**INFORMATION COLLECTED BY COMMITTEE
FOR AND AGAINST PROPOSAL ...**

➤ Appointments ... Appt

**

Name:

➤ Clearinghouse Rules ... CRule

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➤ Hearing Records ... HR (bills and resolutions)

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➤ Miscellaneous ... Misc

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(misc. 2005 documents)

Ohio Department of Insurance
Physician Medical Malpractice Insurance Survey

February 2005



Paul Werth Associates

Methodology

- This is the largest study of the impact of malpractice insurance rates conducted to date in the State of Ohio.
- 8,000 surveys were mailed to a random sample of Ohio physicians.
- 1,359 surveys were returned, for a 17 percent response rate.
- Comparisons among physicians' specialties, region of the state, age, and number of liability claims were conducted on every question.

Objectives

- To understand how medical malpractice insurance has impacted Ohio physicians' revenue, as well as physicians' willingness to perform certain procedures, invest in their practices, and continue to practice medicine in Ohio.
- To learn how medical malpractice insurance has impacted overall physician care, patient access to care and the patient experience.
- To determine physician interest in various proposed measures to stabilize medical malpractice insurance premiums.

Conclusions

The first conclusion is that the rising costs of malpractice insurance have significantly impacted physician behavior and doctors have closed or are planning to close their practices.

- We learned that nearly four out of 10 respondents said they have retired or plan to retire in the next three years due to rising insurance expenses. This finding is all the more sobering since just 9% of the respondents were over age 64.
- More specifically:
 - The percentage of doctor retirements is even higher in Northeast Ohio.
 - More than half of Ohio's neurologists and specialty surgeons responding to the survey plan to retire because of malpractice insurance rates. These specialties, along with obstetrics, are considered higher insurance risks and are charged the highest rates.

Conclusions

Second, rising premiums and the exodus of doctors have already negatively affected Ohio's patient population. In fact, a significant reduction in patient services has already occurred.

- For example, 66% of physicians surveyed have turned down or referred high-risk procedure patients elsewhere.
 - The situation is critical in Southeast Ohio, where 95% of physicians surveyed have declined or referred high-risk patients.
 - In addition, 48% of OB/GYN and family practice physicians in Northeast Ohio reported they have stopped delivering babies due to insurance costs.
 - Over half of Ohio's osteopathic doctors reported they no longer do deliveries.
- Also, high malpractice insurance premiums have influenced where physicians will see patients.
 - 55% have reduced the number of patients they see at nursing homes.
 - 46% have cut back the number of patients they see in home care settings.
 - And 30% see fewer patients in hospice settings.
 - The percentages are particularly high in Northeast and Southeast Ohio.
 - Physicians are minimizing patients in these settings because they consider them high-risk in terms of medical liability.
- Patient care has been impacted in other ways as well:
 - Nearly three-quarters of physician respondents say that they order more tests to better defend their decisions.
 - Physicians also report that they need to see more patients to remain financially viable, which results in longer waits for appointments and less time with each patient.
 - Finally, many doctors have cut their staff in response to malpractice insurance increases.

Conclusions

The third conclusion from the survey is that the malpractice insurance premiums have risen dramatically and have strained office economics.

- 2004 rates went up for 96% of survey respondents, rising by an average of 39% over 2003. Well over a quarter of Ohio physicians responding paid more than \$50,000.
- On average, almost 20% of physicians' gross annual income - one dollar in five - goes to pay malpractice premium costs.
- Rates vary widely, both among states and within medical specialties. In Ohio, for example, OB/GYN physicians responding to the survey pay an average of 30% of their annual incomes - 50% more than the average physician - to malpractice insurers.

Conclusions

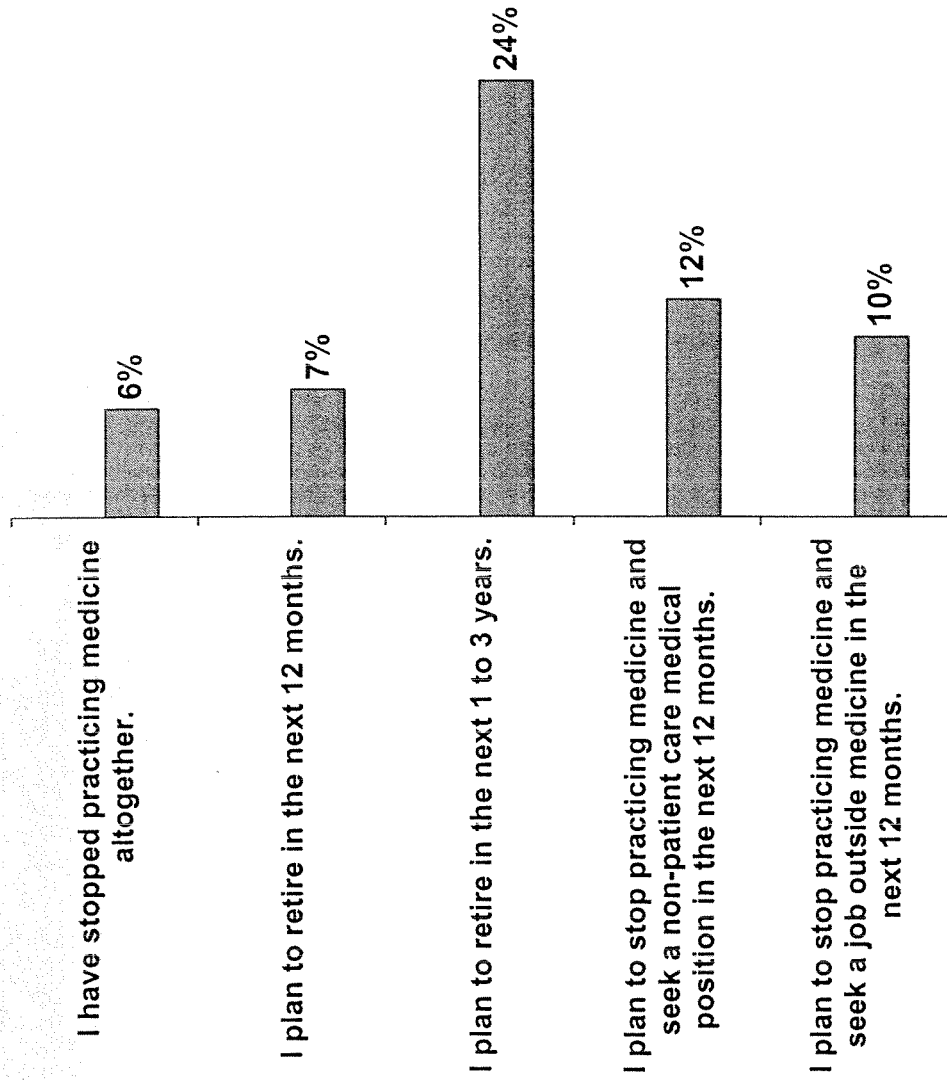
The survey's final conclusion deals with curative measures, steps we might take to remedy the current problem. Here we found that physicians, while recognizing the need for patient recourse when malpractice occurs, generally favor any proposed measure to address rising medical malpractice insurance costs.

- They are particularly supportive of a Medical Review Panel to screen medical liability cases, prior to court filing, to determine whether the merits of the cases. Almost nine physicians in 10 [88%] highly favor this proposal.
- Eighty percent of survey respondents highly favor the institution of a 60-day Mandatory Notice. This would require medical liability insurance companies to notify physicians well in advance if their policy were being cancelled or not renewed, or if they were receiving a significant premium increase. The Department spearheaded legislation (S.B. 187 effective 9/13/04) last year to implement this requirement.
- Finally, more than three doctors in four [76%] highly favor what is called Expert Witness Qualification Review. This would require the plaintiff to submit a "certificate of expert review" confirming that each medical expert witness is qualified to serve in that capacity. Legislation (H.B. 215 effective 9/13/04) was passed last year with the Department's sponsorship requiring witnesses to be pre-certified as expert witnesses in their field by the Ohio State Medical Board.

Impact of Malpractice Insurance Costs: Physician Drop-Out Rates

Nearly 40 percent of the physicians surveyed either have retired or are planning to retire in the next three years due to the rising cost of medical malpractice insurance.

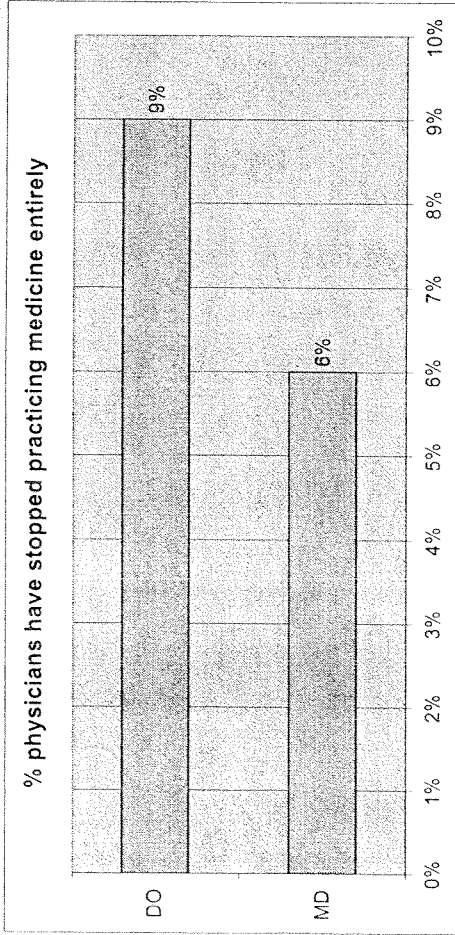
Physician Career Path



% Agree and Strongly Agree

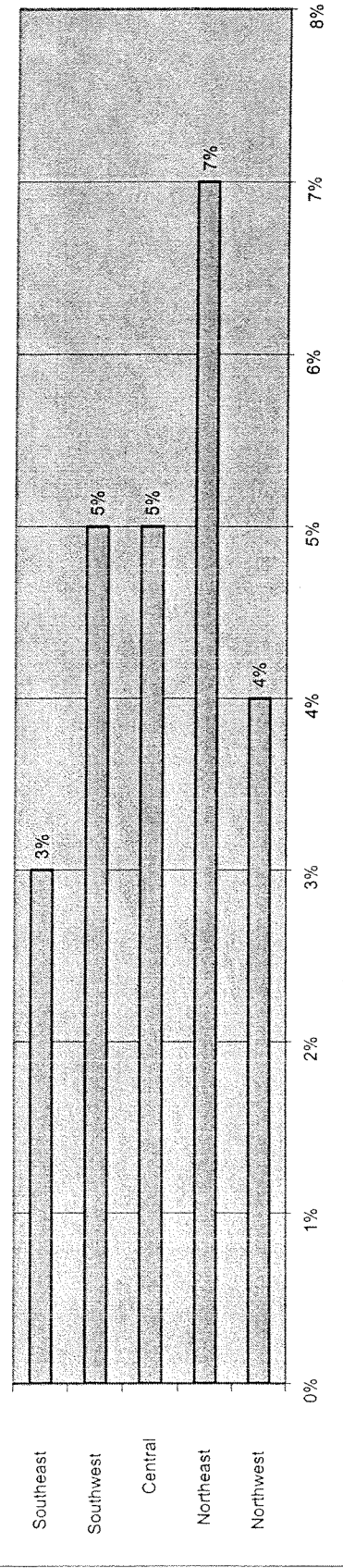
A small number of physicians have stopped practicing medicine altogether. Open-ended responses would suggest that many will choose to leave the state as well.

% physicians have stopped practicing medicine entirely



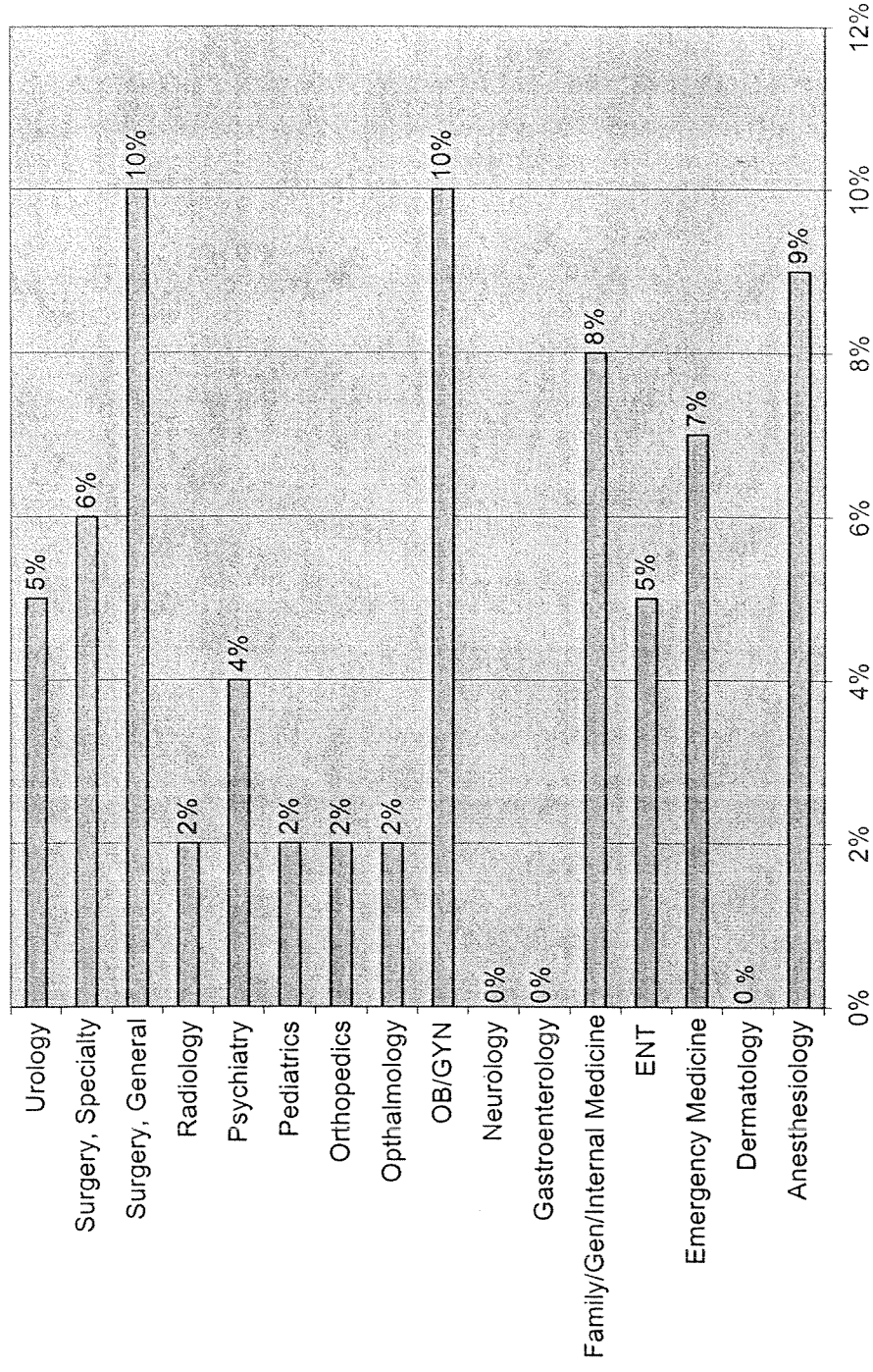
- Malpractice rates were the deciding factor in my retirement.
- I am moving to Colorado in August. They have a good tort reform law in place.
- I was forced to look for practice outside the state of Ohio to deflate the cost of malpractice.
- I have totally left the field of medicine because I could not make ends meet. It is unfortunate that we are losing excellent caring doctors because of this crisis!

% physicians have stopped practicing medicine entirely



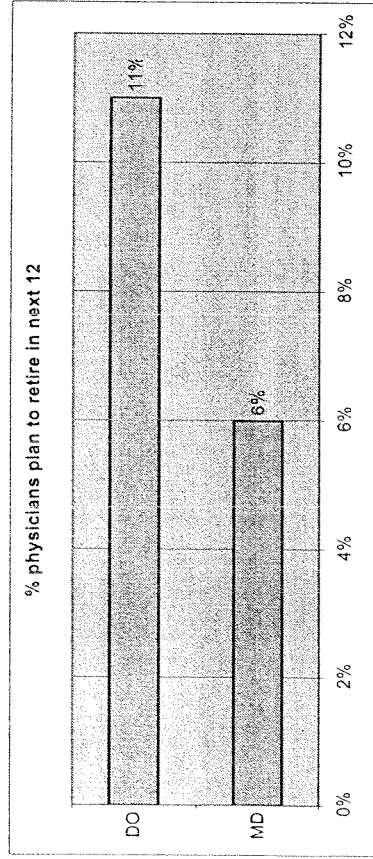
The highest retirement rates because of malpractice insurance costs are among General Surgeons and OB/GYN

% physicians have stopped practicing medicine entire



DOs are more likely than MDs to retire in the next 12 months. This brings the total of DOs retiring either lately or in the next year to 20%*.

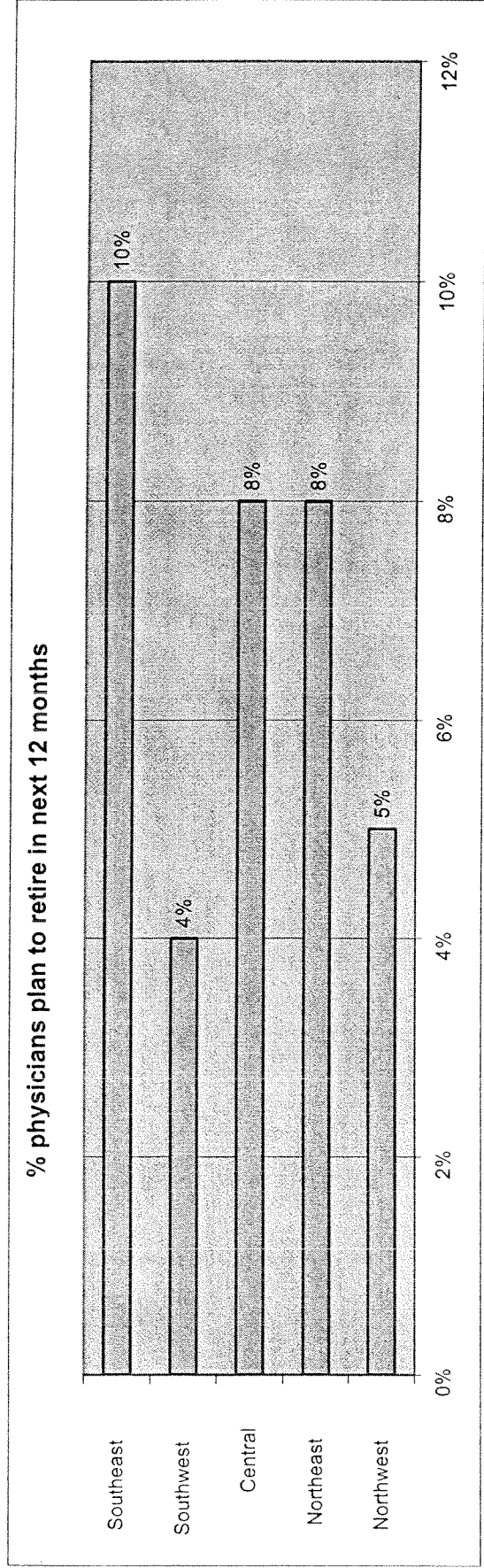
% physicians plan to retire in next 12 months



* I am retiring from practice as of June 2004. I would continue working if I could afford it.

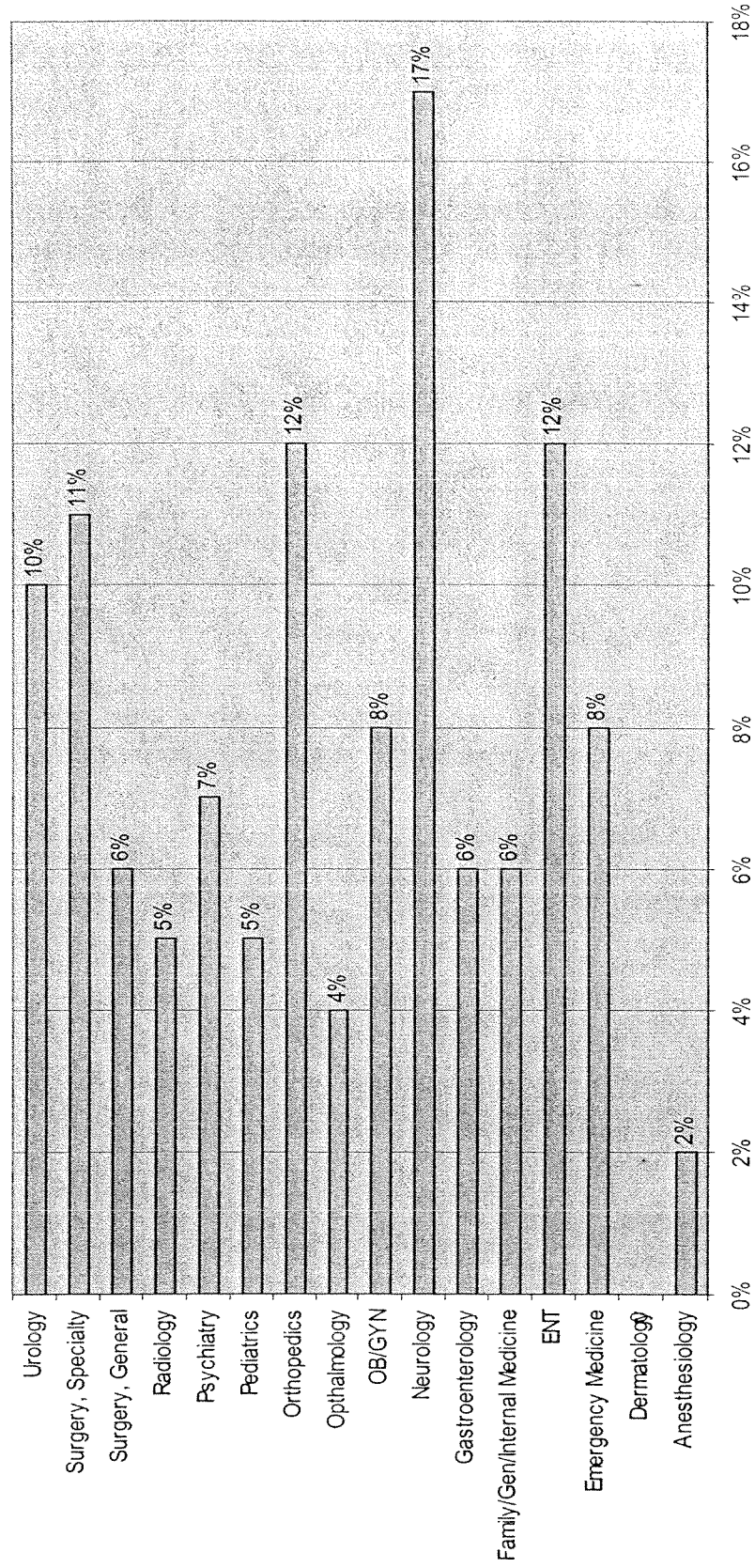
***90% stopped practicing medicine recently; (see page 12); 11% plan to retire in 12 months, re: this page.**

% physicians plan to retire in next 12 months



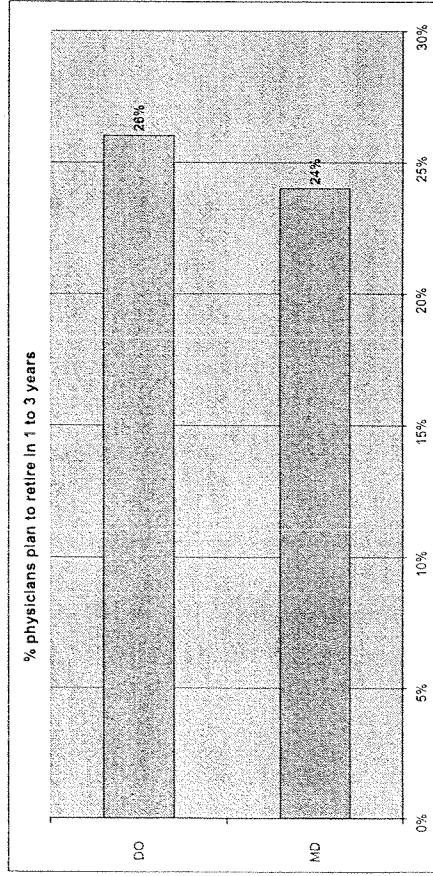
Likelihood of physicians retiring in the next 12 months is fairly static across specialties.

% physicians plan to retire in next 12 months



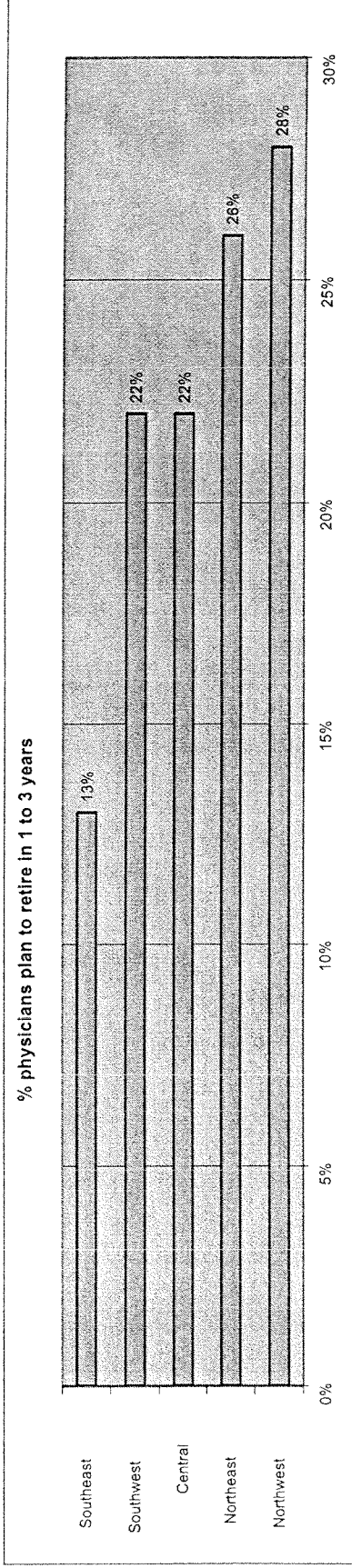
The Northeast Ohio region has the greatest number of physicians either having retired, or going to retire, in the next 12 months or 1 to 3 years – over 40%* of the physicians in the region.

% physicians plan to retire in the next 1 to 3 years.

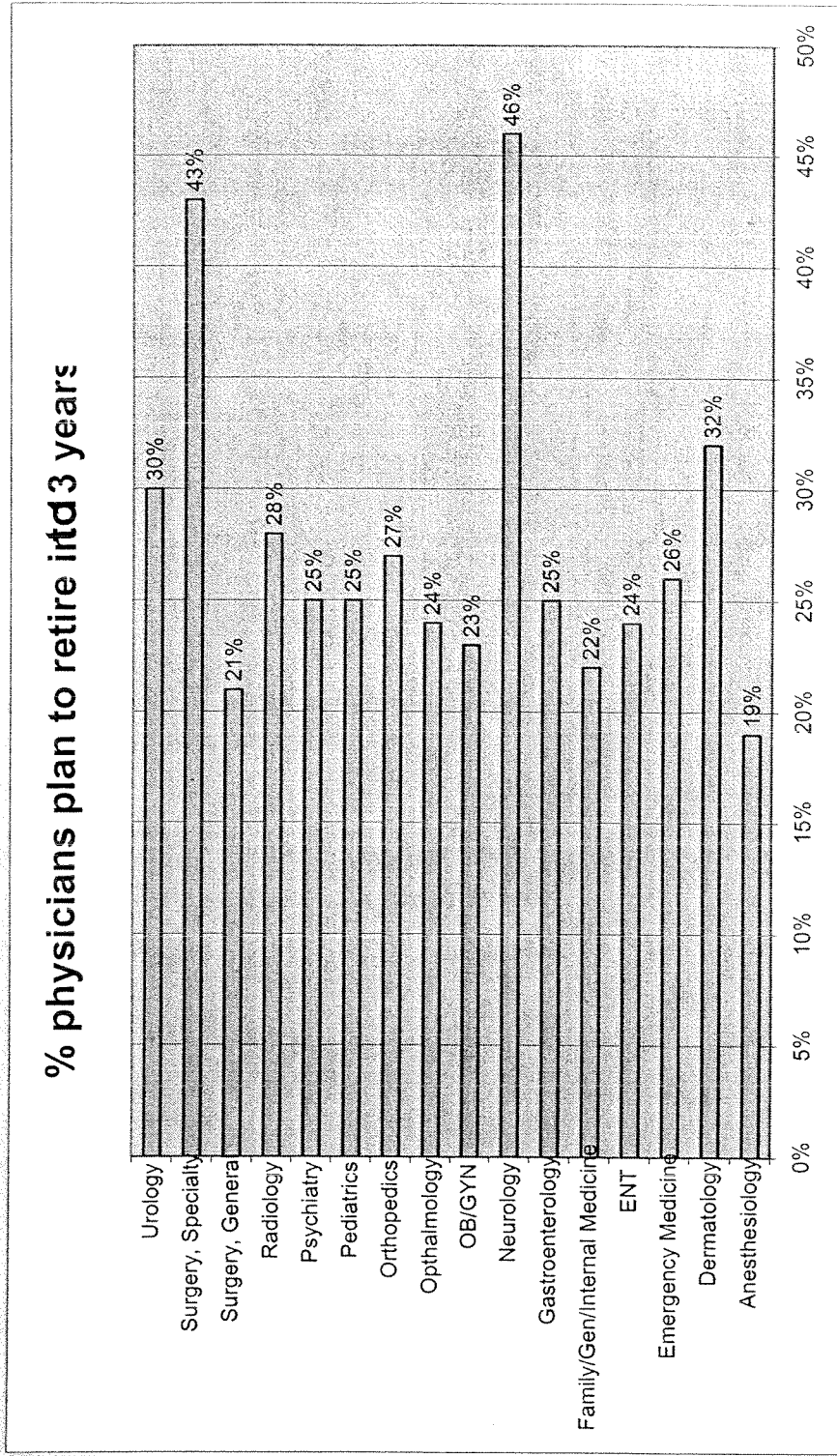


- The real problem is the constant threat of frivolous lawsuits and unreasonable awards. My practice is not worth it. I will retire 5 to 10 years early as a result.
- Based on projected rate increases for the current year, I could be out of business within 6 months to 2 years.

*This figure represents a total of the 7% from page 12, 8% from page 14 and 26% from this page.



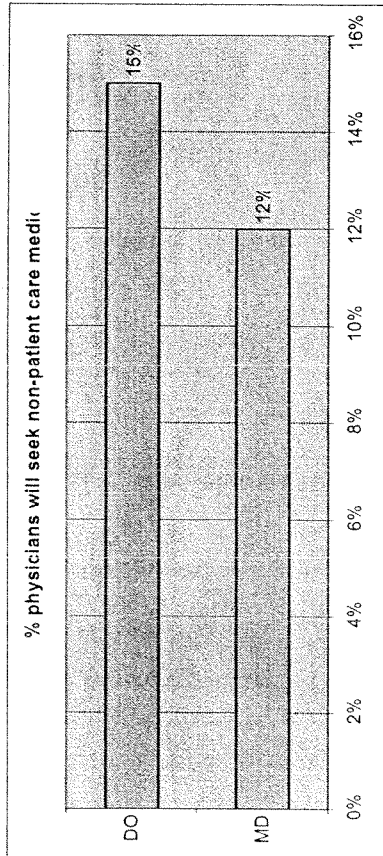
Neurologists and Specialty Surgeons are highly likely to retire in the next 1 to 3 years. Taking into account those that have retired or will retire in the next 12 months, over 50%* of Specialty Surgeons and over 60% of Neurologists will stop practicing medicine by 2007.



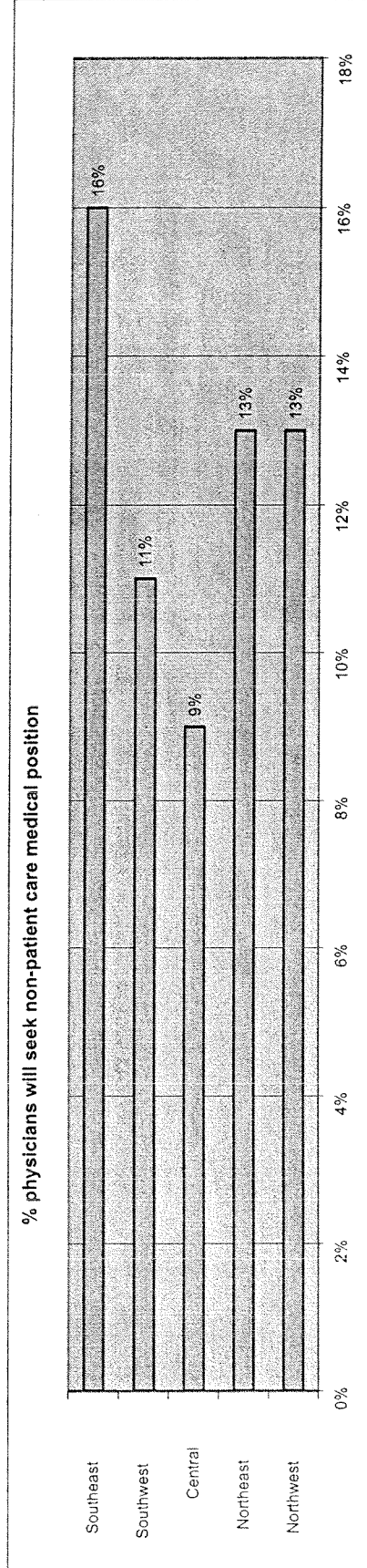
***This figure represents a cumulative total from page 13, page 15, and this page.**

The likelihood of moving to a non-patient oriented medical position is roughly the same across MD/DO and Ohio regions.

% physicians plan to stop practicing medicine and seek a non-patient care medical position in the next 12 months

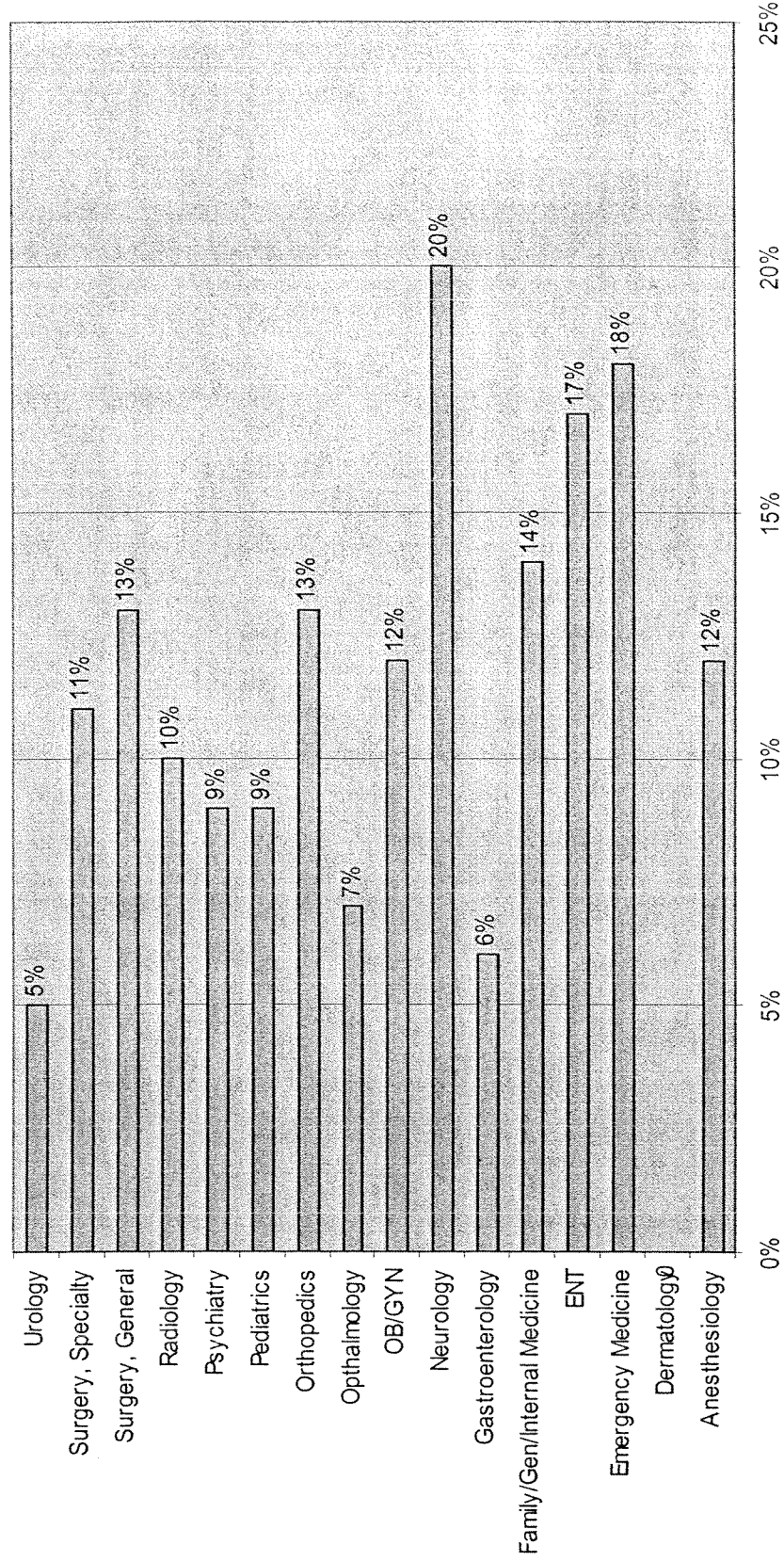


- I cannot continue at this pace and I am reviewing employment options outside of direct patient care. I work in an underserved area and many of my patients will have a hard time finding a new physician.
- I have had to close my private office and reopen my practice under a hospital umbrella.
- I am changing my practice soon. I will stop seeing patients and instead will work for hospice.



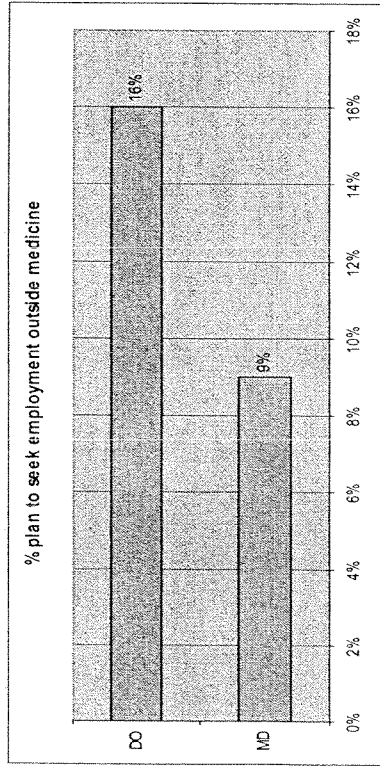
Neurologists are also more likely to seek non-patient care medical positions in the near future.

% physicians will seek non-patient care medical position

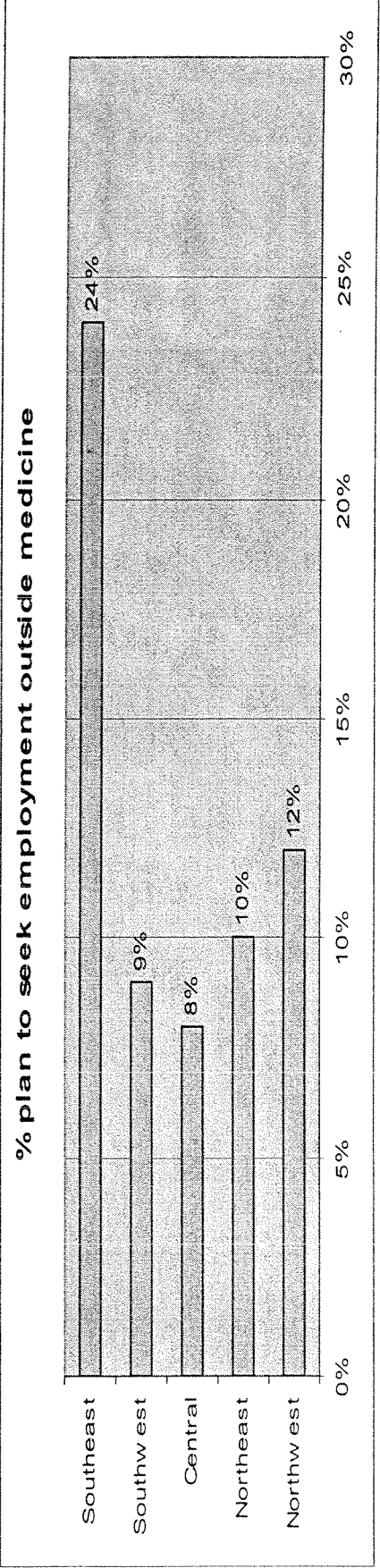


Physicians in Southeast Ohio and DOs are most likely to seek jobs outside of medicine in the near future.

% physicians plan to stop practicing medicine and seek a job outside medicine in the next 12 months

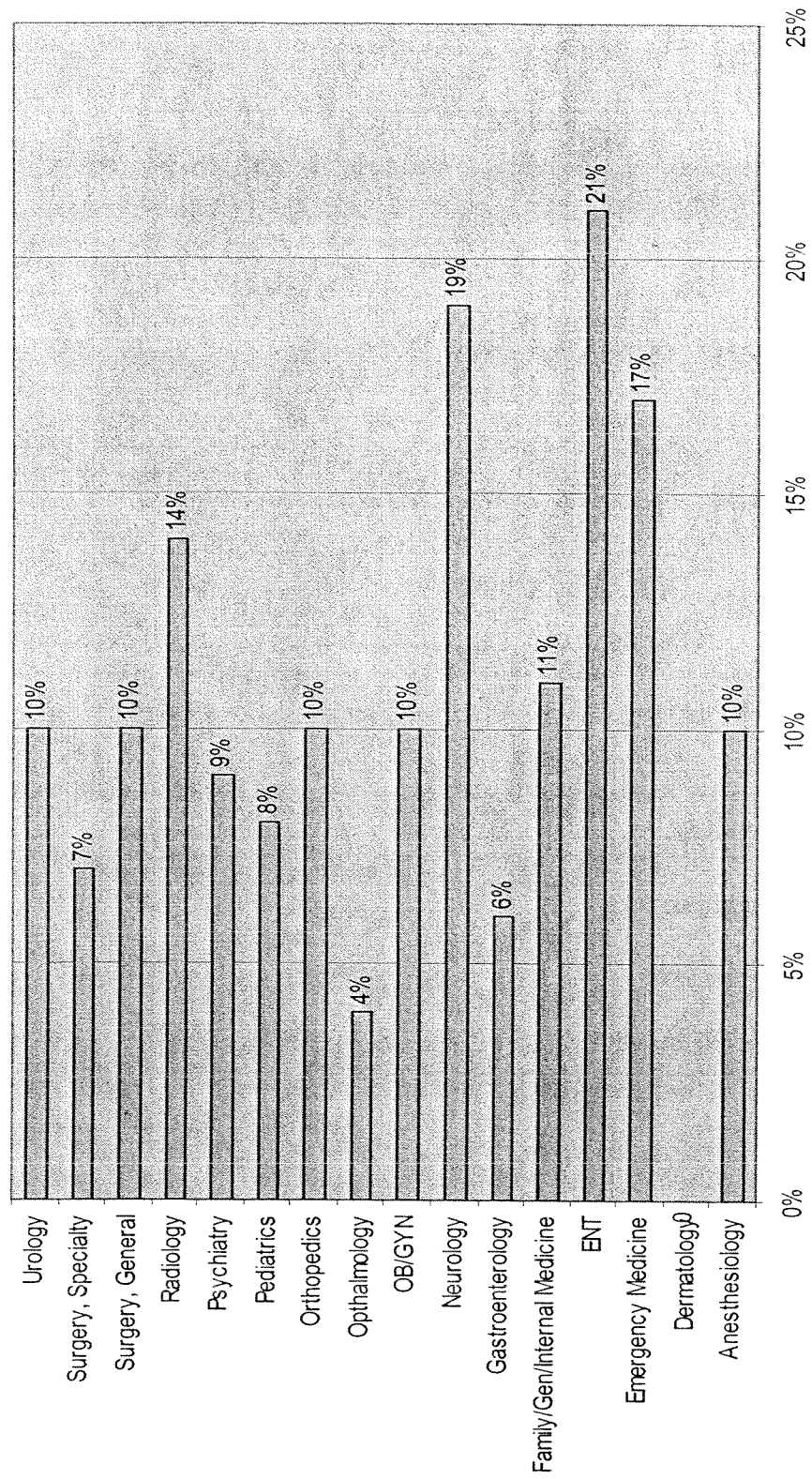


- My husband and I are considering leaving medicine.
- I am a young physician, but I plan to get out of medicine as soon as possible.
- I cannot bear the cost beyond 2004. If rates do not improve, I will be forced to abandon medicine as a career.
- I cannot afford to practice at all and am doing other business.



Neurology, ENT and Emergency Medicine physicians are most likely to leave medicine as a profession in the near future.

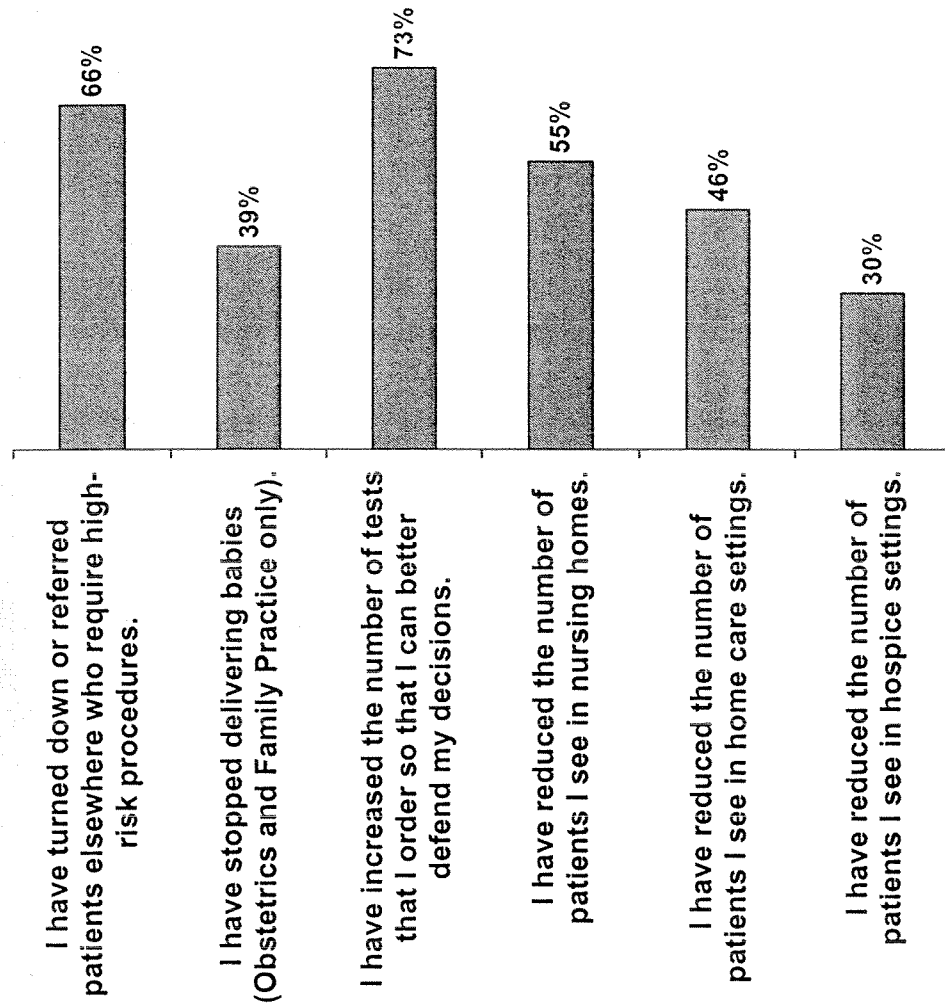
% plan to seek employment outside medicine



Impact of Malpractice Insurance Costs: Reduction in Provided Services

Nearly three-quarters of physicians have increased the number of tests ordered so that they can protect themselves from lawsuits. Further, two-thirds of physicians have turned down patients that require high-risk procedures.

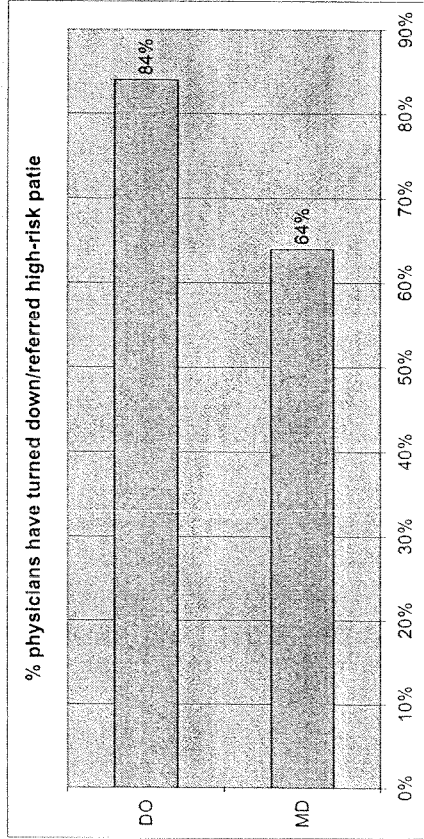
Health Care Services



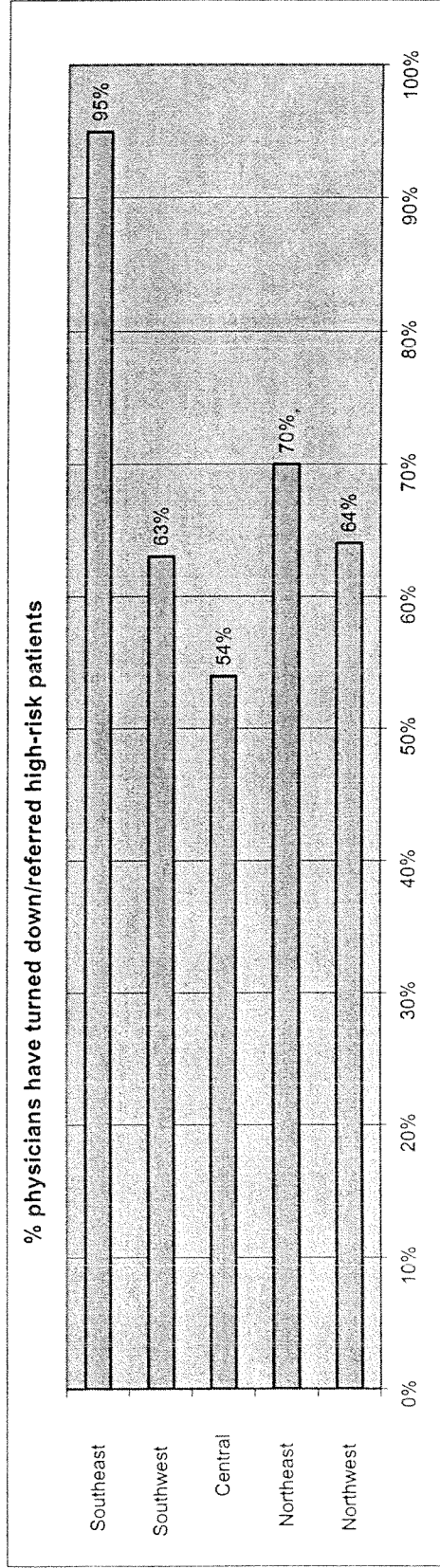
% Agree and Strongly Agree

Nearly all physicians in Southeast Ohio have turned down or referred patients that require high-risk procedures. This is common among all physicians – but particularly among DOs.

% physicians have turned down or referred patients who require high-risk procedures.

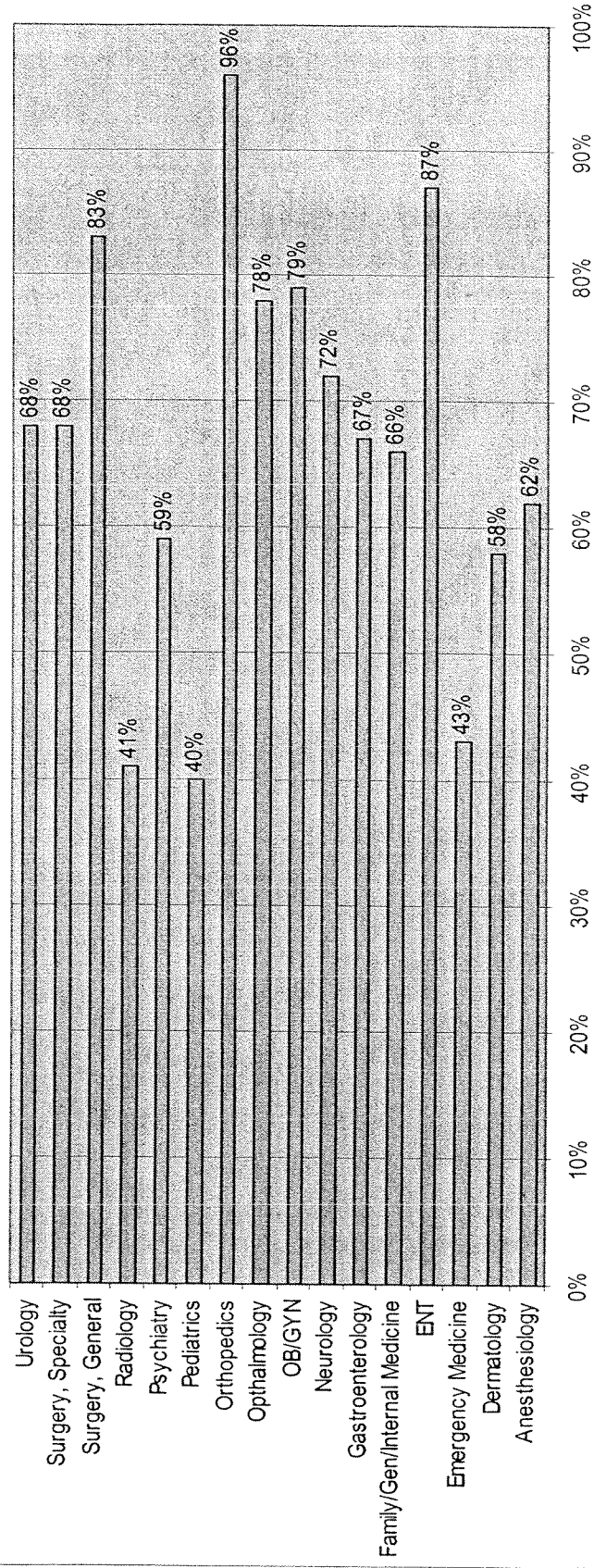


- I have restricted my practice to patients by referral only.
- I now avoid difficult cases.
- I tend to avoid cases I can help, but that look risky from the malpractice standpoint.
- I no longer see high-risk patients such as self-pay and Medicaid patients.
- I am becoming more selective in who I will treat.
- I am more selective about which patients I will operate on. I turn away more difficult and challenging patients and surgeries.



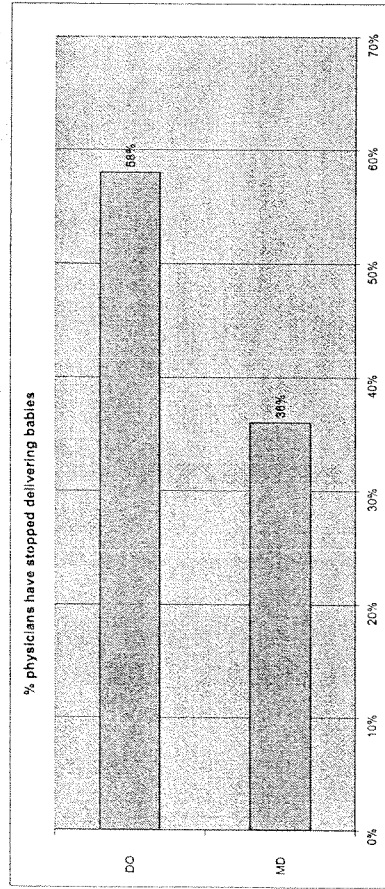
Nearly all Orthopedic physicians have turned down or referred patients who require high-risk procedures because of concerns about malpractice insurance costs.

% physicians have turned down or referred patients who require high-risk procedures.



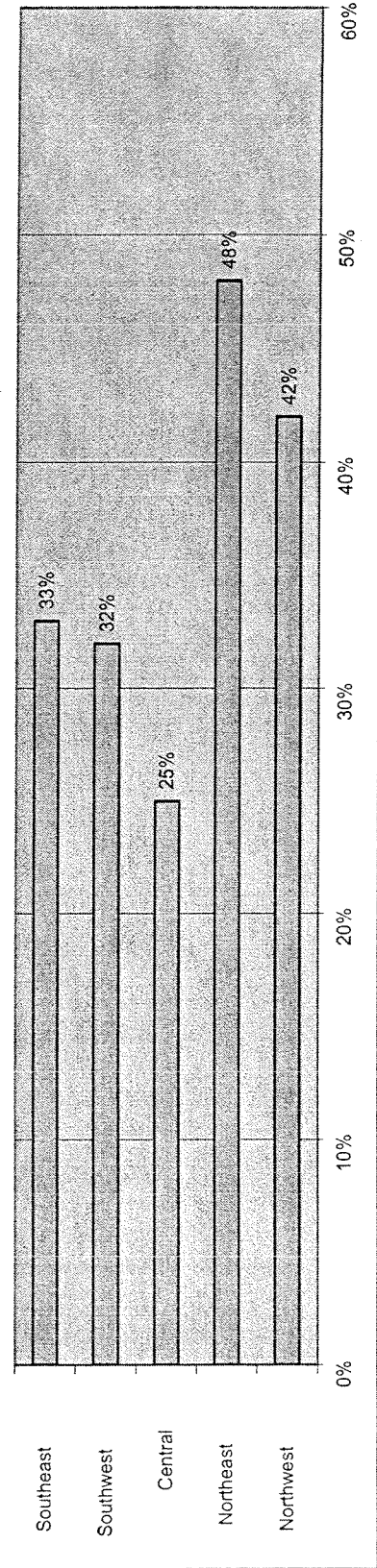
The drop in OB services is particularly high among DOs – over half of them have stopped delivering babies. The Northwest and Northeast regions of Ohio have also experienced a significant drop.

% physicians have stopped delivering babies (OB/GYN and Family Practice only)



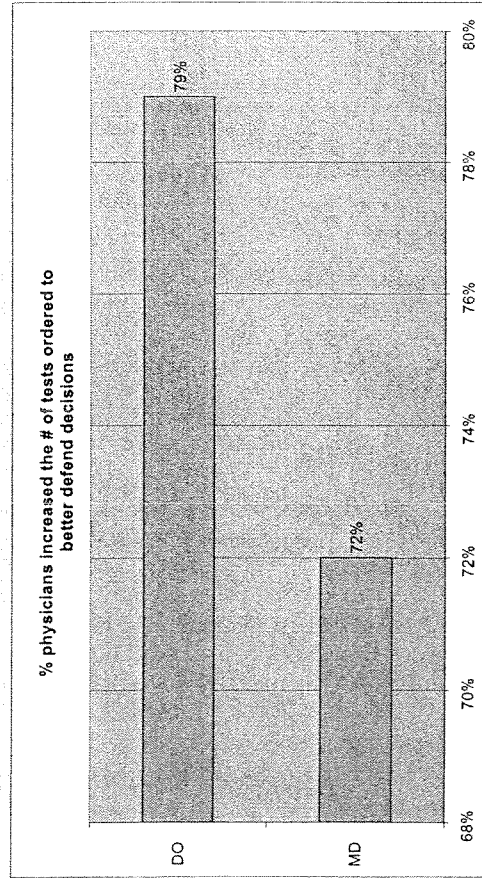
- As a Pediatrician, I do not take care of high-risk newborns and deliveries.
- I no longer care for high-risk newborns.
- I may have to stop OB. I will make this decision next year.
- I am quitting OB care in August, as well as vasectomies.
- I have given up Obstetrics and am in the process of paying off my "tail."

% physicians have stopped delivering babies



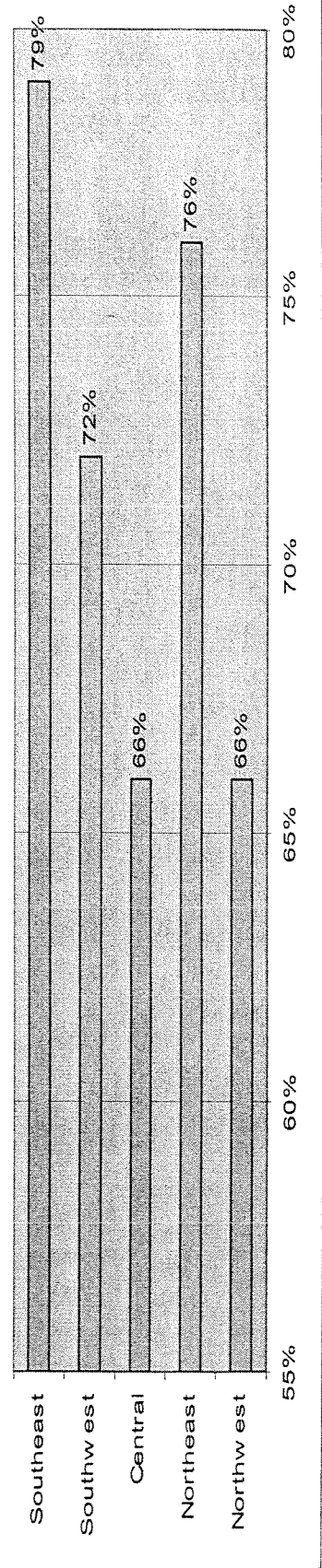
Increased testing is pervasive among both DOs and MDs and in all Ohio regions.

% physicians increased the # of tests ordered to better defend decisions



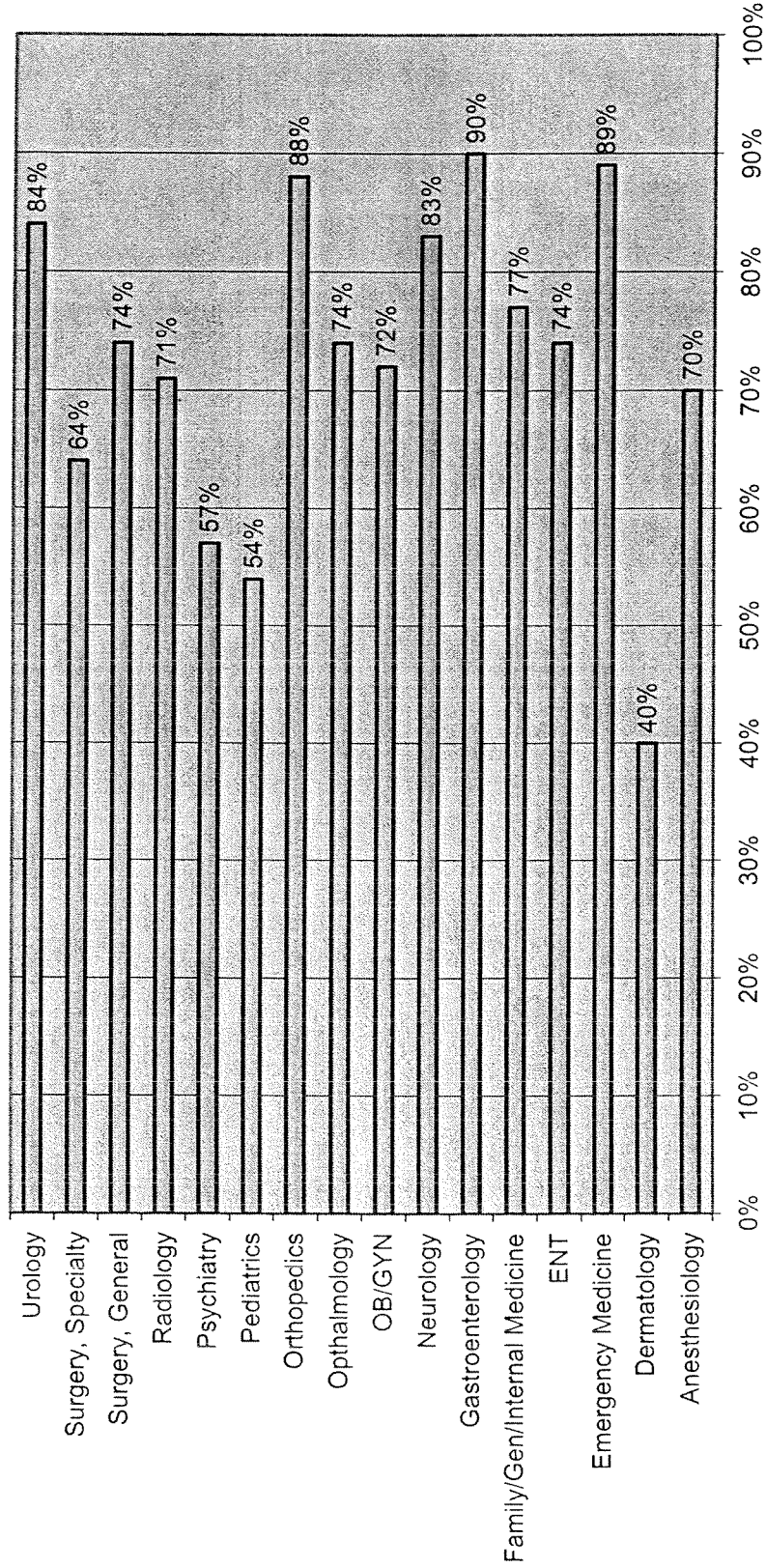
- I order more tests even though I know that 99% of the time they will be normal. This is to protect myself in today's legal climate.
- I increased testing that I knew would not be helpful in order to provide medio-legal coverage.
- I increased testing and practice defensive medicine.
- After 27 years in practice, I feel that I must order more CAT scans and MRIs and second opinions.

% physicians increased the # of tests ordered to better defend decisions



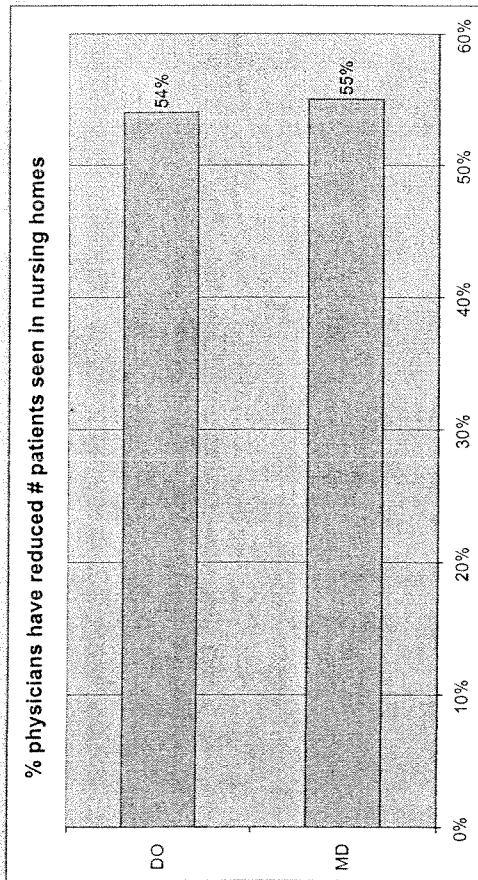
The specialties most likely to have increased testing are Emergency Medicine, Gastroenterology and Orthopedics.

% physicians increased the # of tests ordered to better defend decisions



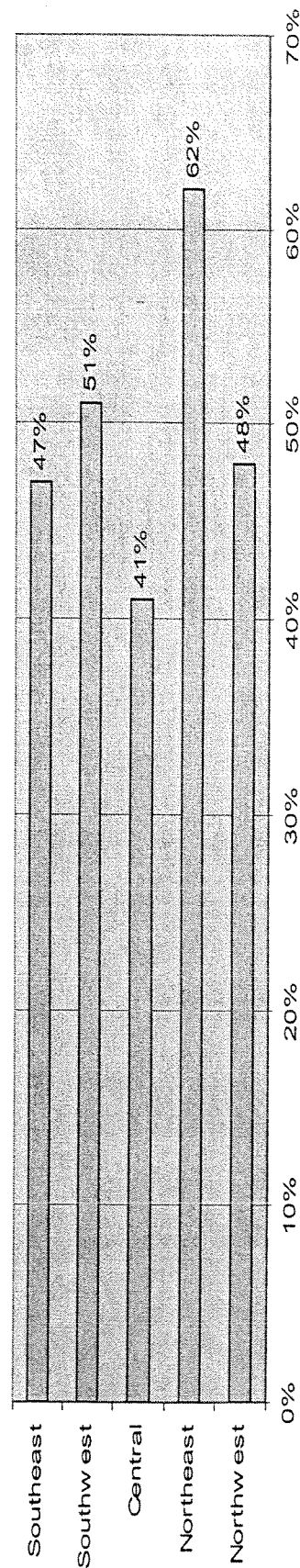
More than half of all physicians have reduced the number of nursing home patients they see. The greatest reductions are in Northeast Ohio.

% physicians have reduced the number of patients seen in nursing homes



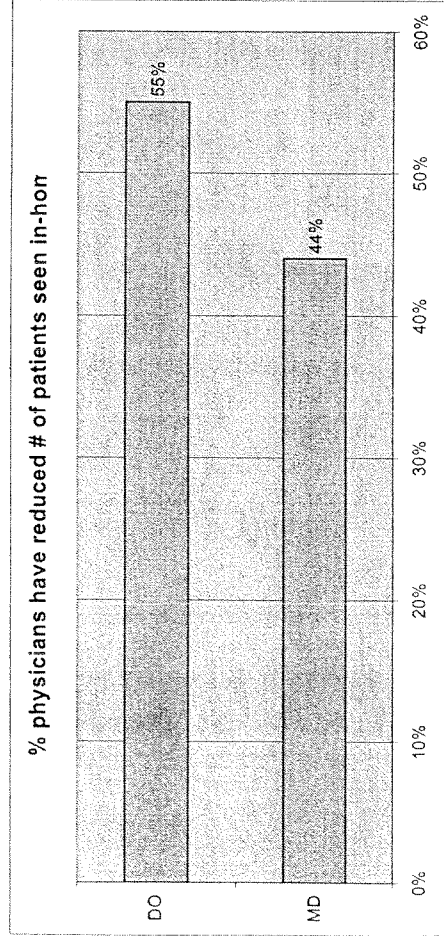
- I dropped my nursing home practice.
- The Medical Protective Company informed me they would no longer cover me because my practice is now almost entirely in the nursing home. I was informed that it is their policy not to cover physicians who go to nursing homes primarily.
- I am considering cutting back on high-risk areas, such as nursing home patients with wounds!
- I refer more patients, do more tests and have stopped hospital and nursing home care.

% physicians have reduced # patients seen in nursing homes

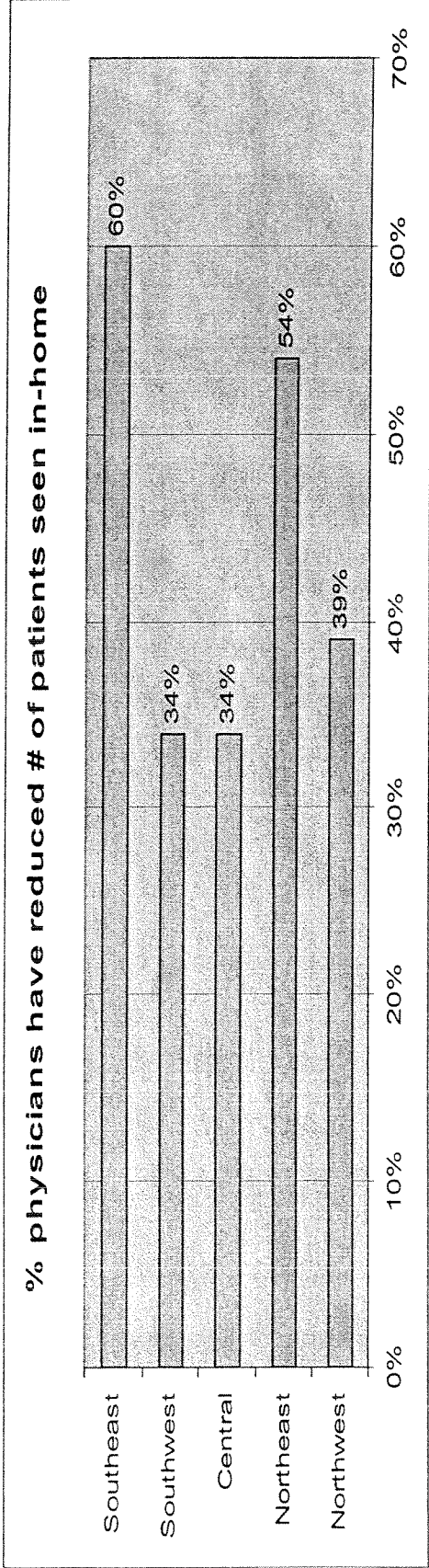


Northeast and Southeast Ohio have had significant reductions in the number of physicians that will see patients for in-home care.

% have reduced the number of patients seen in home care.

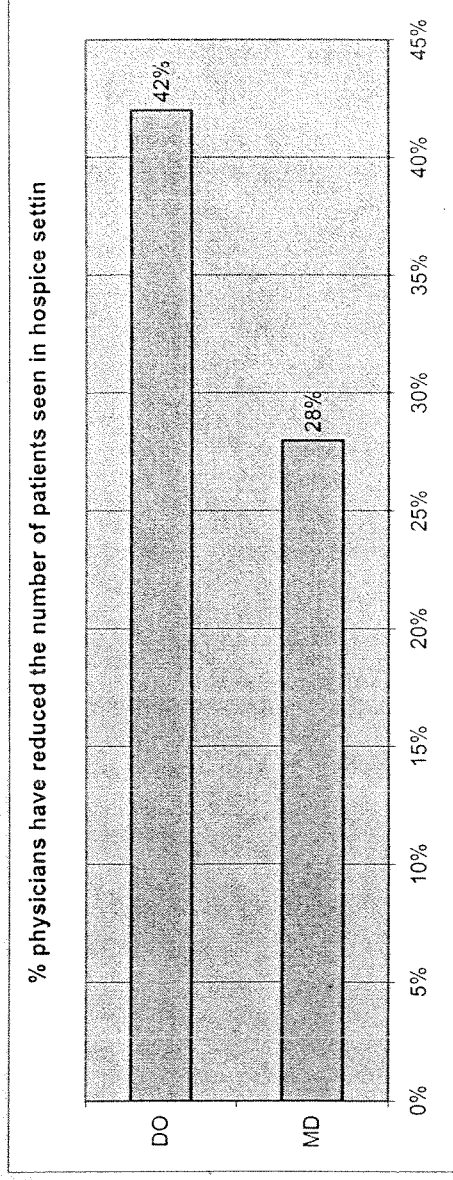


- I work in a tertiary care setting. My patients are all extremely high risk and it is getting worse. No one wants to care for them.
- I have drawn back from plans to see nursing home patients. I am not making house calls either.

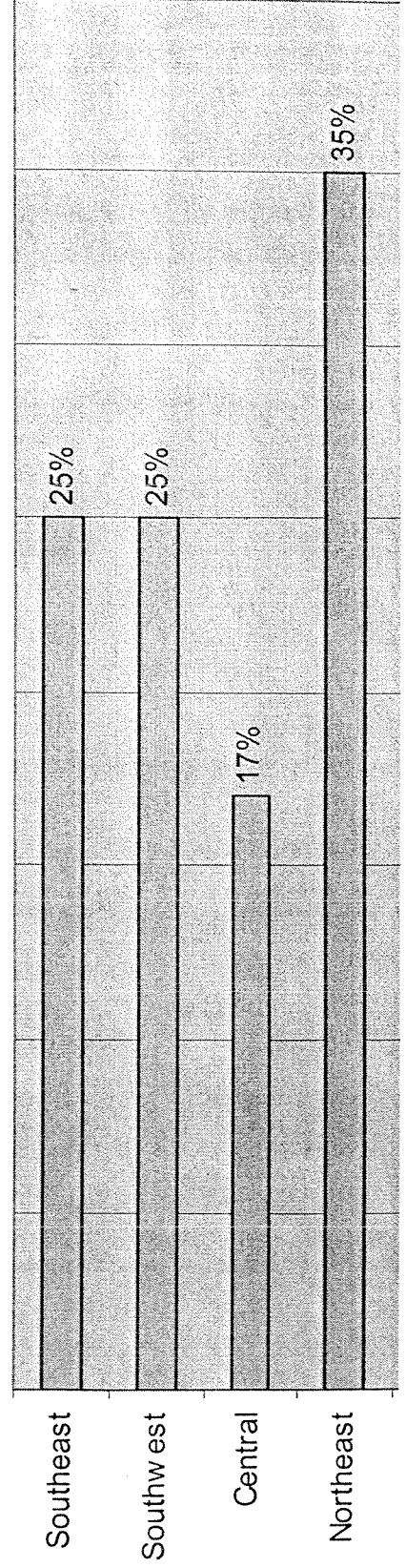


DOs in particular have reduced the number of patients they see in hospice settings. The Northeast and Northwest regions have been most affected by this trend.

% physicians have reduced the number of patients seen in hospice settings



% physicians have reduced the number of patients seen in hospice settings

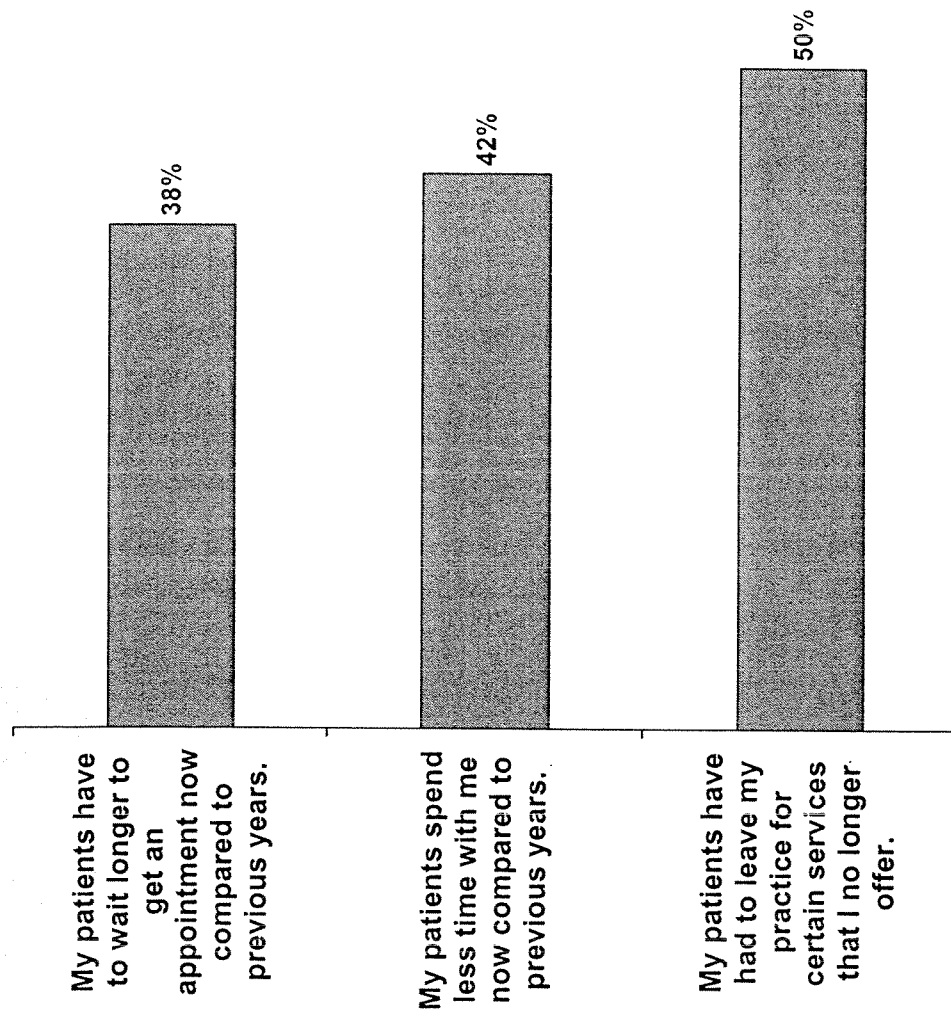


Impact of Malpractice Insurance Costs:

Decreased Patient Care

Nearly 40 percent of physicians believe their patients receive less service now than in the past, from waiting longer for appointments to receiving less personal attention. A full half of all responding physicians report having to send patients to another practice to access services previously provided.

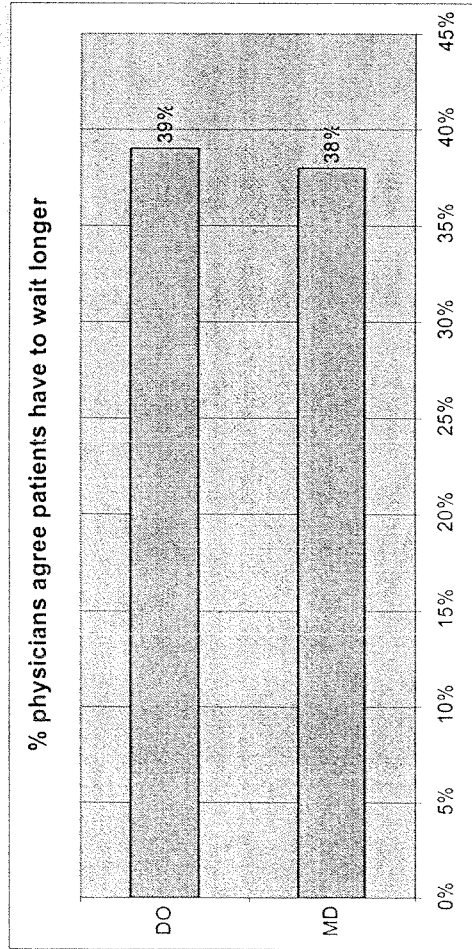
Patient Care



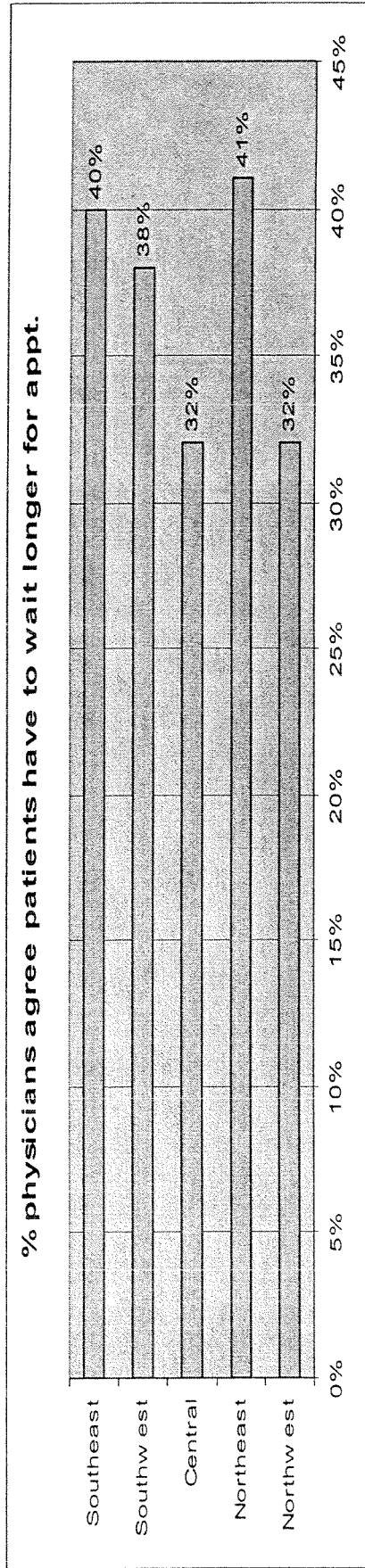
% Agree and Strongly Agree

Likelihood of increased waits for appointment times are generally the same regardless of region or MD/DO.

Lengthened appointment times

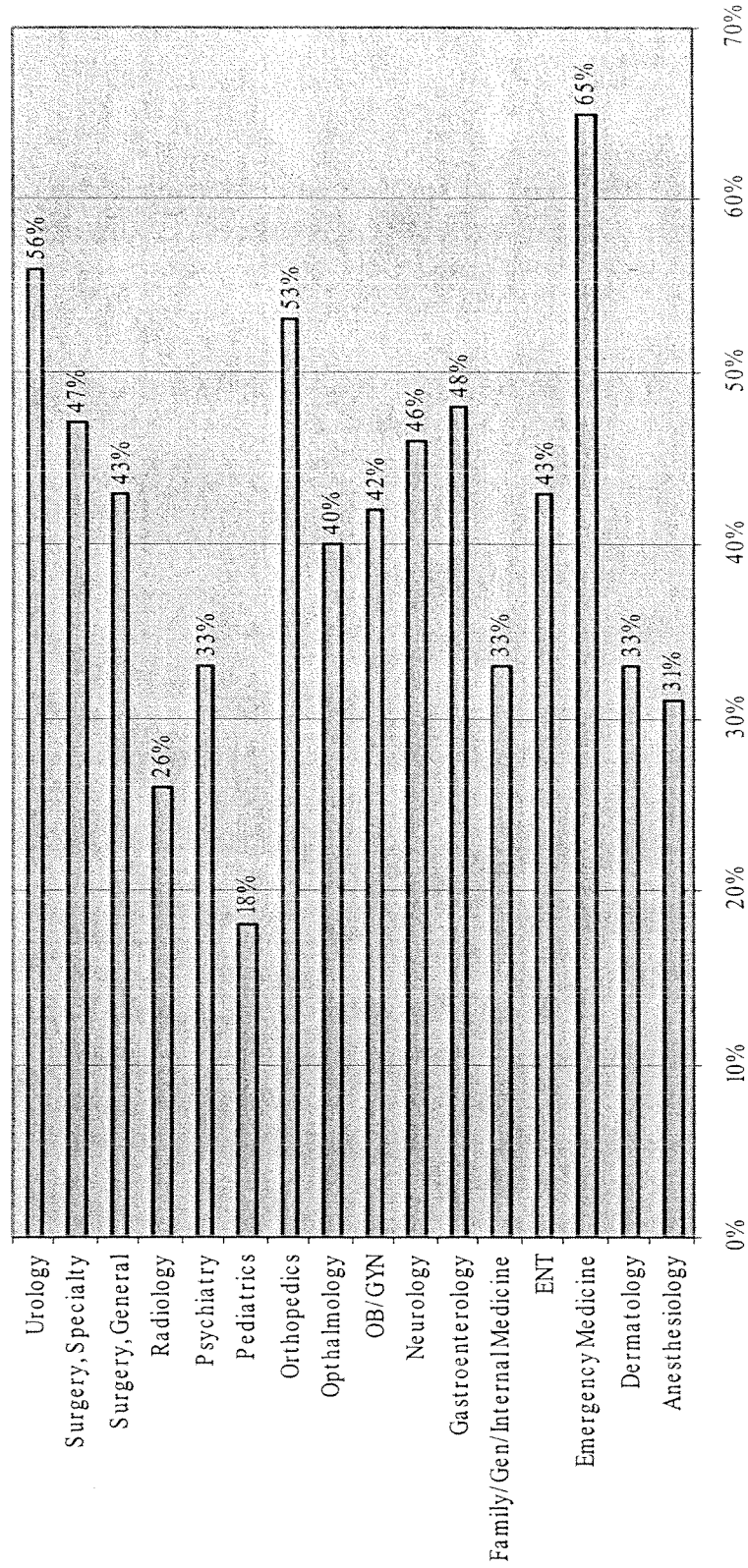


- I have established a "three strikes and you're out" policy. After a patient fails to follow orders to obtain tests or x-rays or fails to keep appointments, they receive a 30-day letter to find a new MD.
- I will not do much over the phone. Patients need to be seen and documented in the office.
- I am seeing more patients to increase revenue to pay for malpractice.



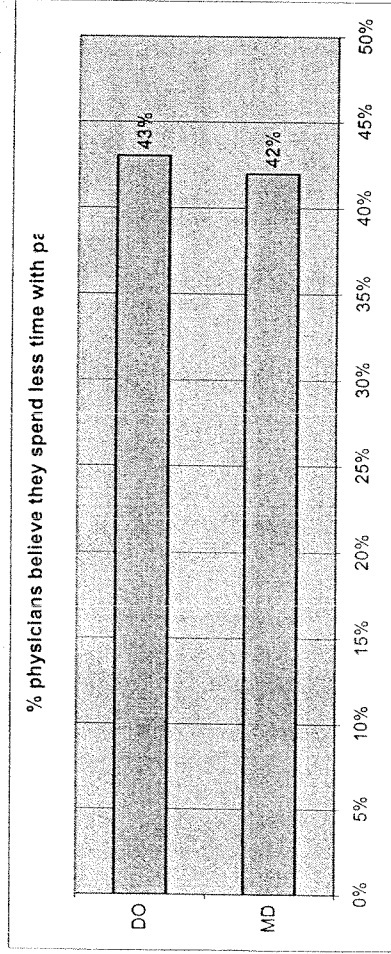
Emergency Medicine physicians, Orthopedics and Urologists are most likely to believe that patients have longer waits for medical service.

%physicians agree patients have to wait longer for appt.

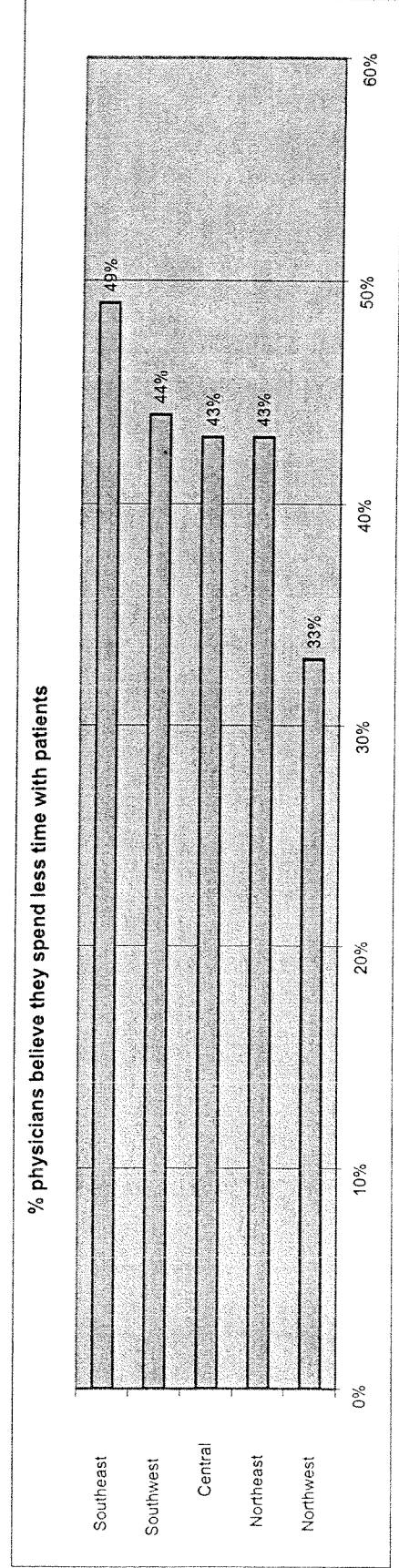


Only Northwest Ohio has fewer physicians that believe they spend the same time with patients as in the past. In all other regions, over 40% of physicians note a decrease in time spent with each patient.

% physicians believe they spend less time with patient

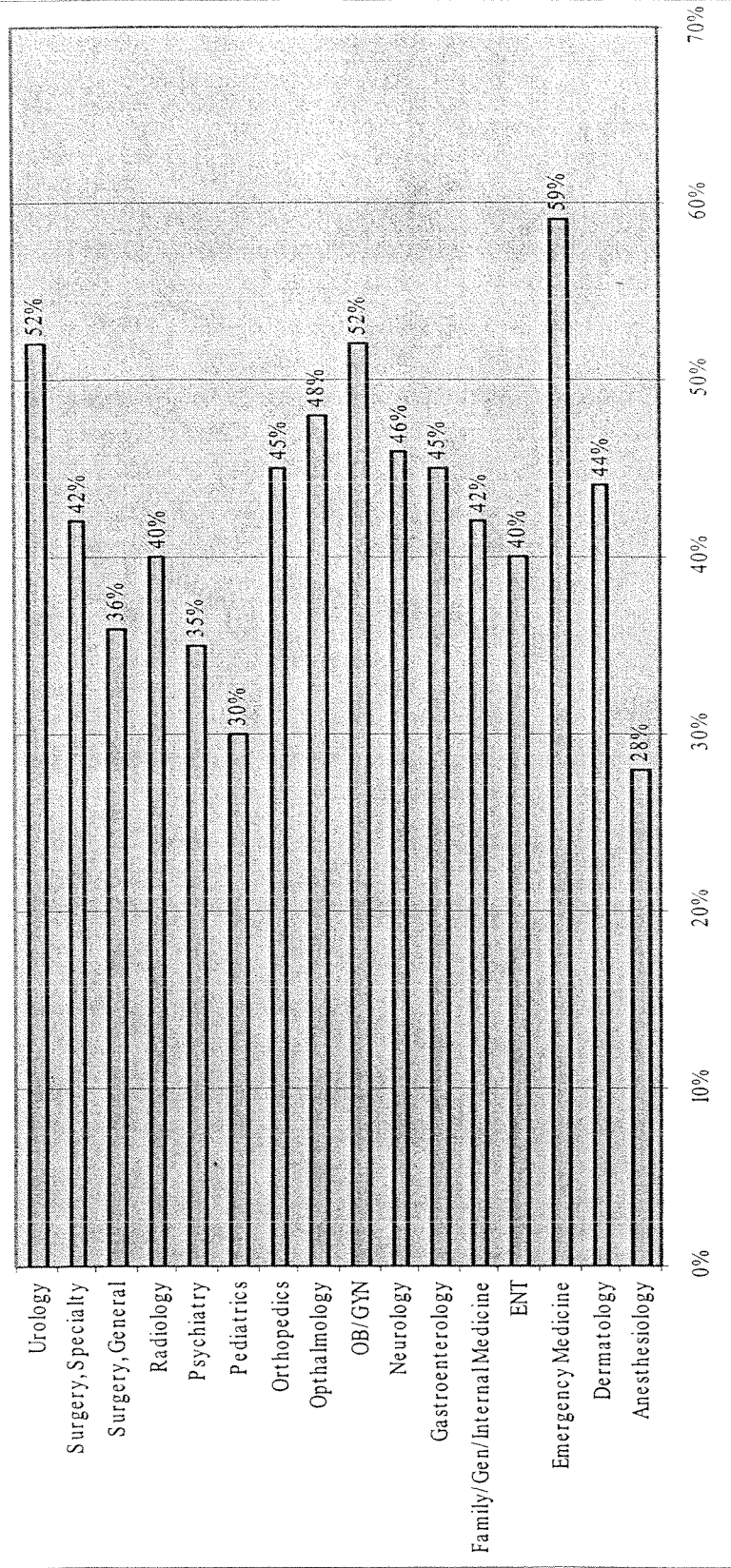


- I have increased the volume of patients that I see which decreases the time spent with each patient.
- More time and money is spent to increase documentation, which means less time to care for patients.
- I have to see more patients and spend less time with each one to make up the additional expenses.



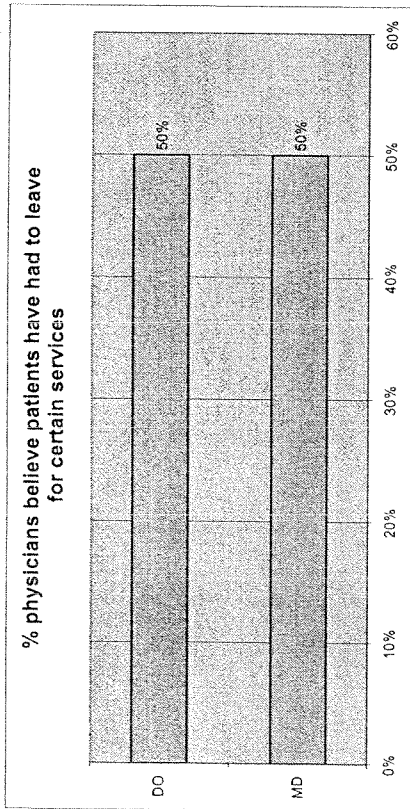
Emergency Medicine, OB/GYN and Urology physicians are most likely to believe that they spend less time with patients.

%physicians believe they spend less time with patients



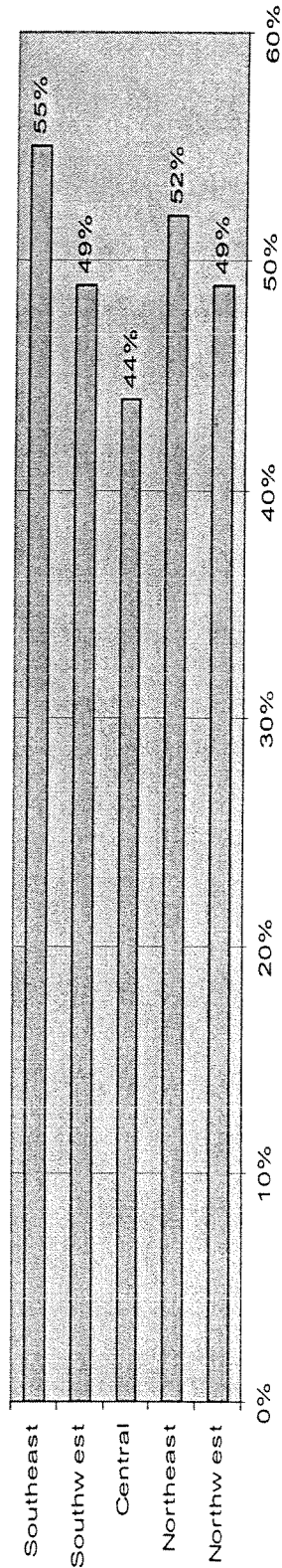
Nearly half of physicians in all Ohio regions agree that their patients have had to seek certain services elsewhere, as they are no longer offering them, due to malpractice insurance costs.

% physicians agree that their patients have had to leave their practice for certain services they no longer offer



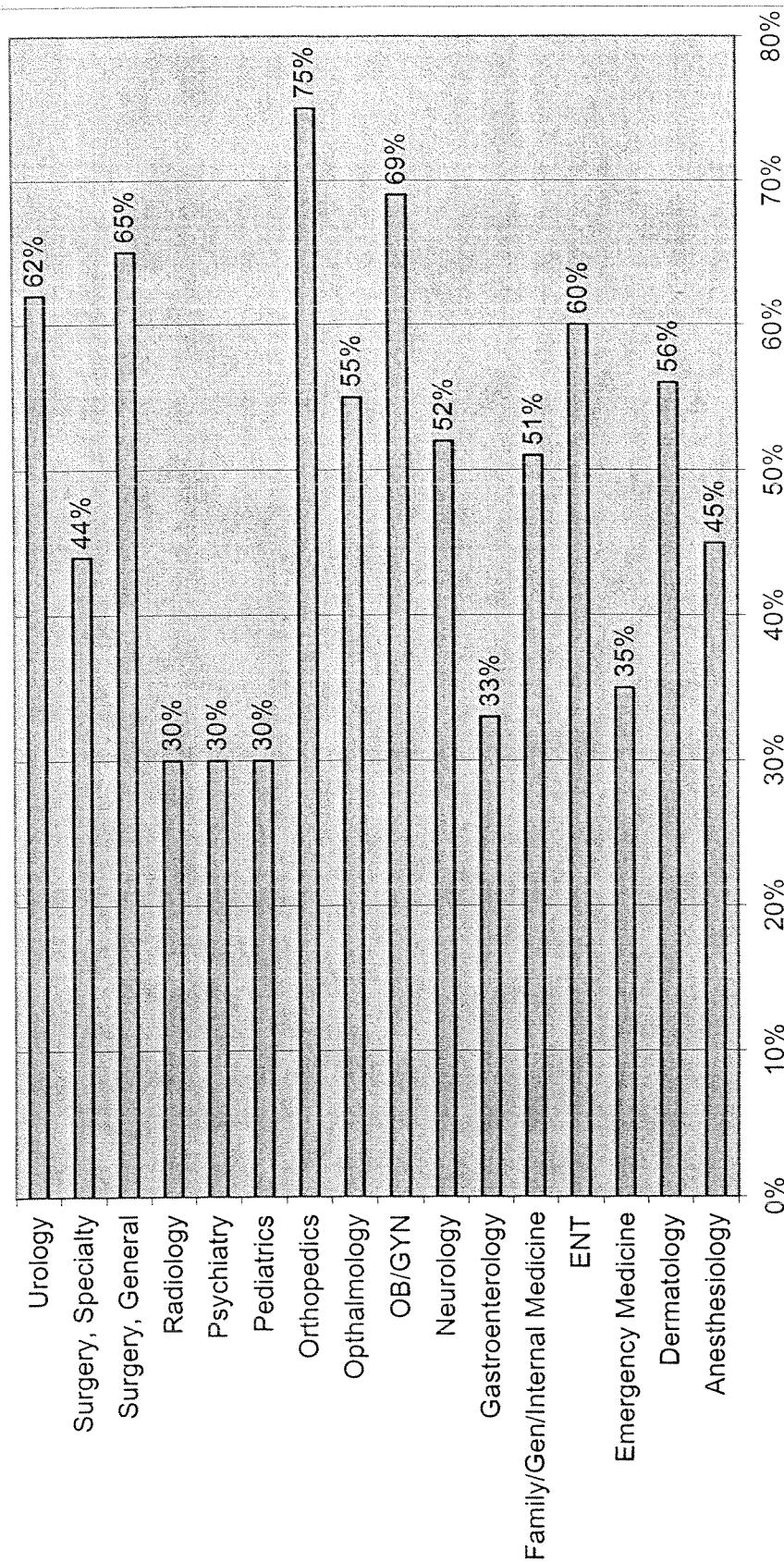
- I have stopped treating severe injuries that I would normally handle and ship to a sub specialist.
- We provide fewer services to patients. We have also increased testing and therefore increased costs.
- I no longer do open heart surgery.
- I have given up spine surgery.
- I have stopped surgery on all children because of the statute of limitations.
- I no longer perform any high-risk procedures. My patients must travel to another city about 40 minutes away and get on a waiting list to be seen.

% physicians believe patients have had to leave for certain services



Orthopedics are most likely to report that patients have had to leave their practice for certain services, followed by OB/GYN physicians.

% physicians believe patients have had to leave for certain services:



Impact of Malpractice Insurance Costs:

Reduction of Staff