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
**

➢ Executive Sessions ... ES
**

➢ Public Hearings ... PH
**

➢ Record of Comm. Proceedings ... RCP
**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL ...

➢ Appointments ... Appt
**

Name:

➢ Clearinghouse Rules ... CRule
**

➢ Hearing Records ... HR (bills and resolutions)
**

➢ Miscellaneous ... Misc

05hr_AC-In_Misc_pt58b

(2005 documents)

2. Myth: Caps on non-economic damages will not address the problem of affordability and availability of coverage.

Fact: The HEALTH Act is modeled after California's 1975 Medical Injury Compensation Reform Act, which has enabled health care professionals to focus on providing high-quality care. Research has demonstrated that direct medical care litigation reforms—like the HEALTH Act which includes limitations on non-economic damage awards—reduce medical liability claims rates and insurance premiums. California now has some of the lowest liability premiums in the country.

3. Myth: Adjusting the statute of limitations means patients will not have enough time to seek redress.

Fact: The HEALTH Act limits the number of years a plaintiff has to file a health care liability action, ensuring that claims are brought before evidence is destroyed, while witnesses are available and memories are fresh. It guarantees that health care lawsuits will be filed no later than 3 years after the date of injury. In some circumstances, however, it is important to guarantee patients additional time to file a claim. Accordingly, the Act extends the statute of limitations for minors injured before age 6.

4. Myth: MICRA-style reforms, including a $250,000 hard cap on non-economic damages unfairly target children, who would not be able to collect any economic damages.

Fact: Children in California, a state which has had the benefits of MICRA since 1975, have been able to receive multi-million dollar verdicts and settlements precisely because economic damages include measurement of future wages. If an injury prevents a child from pursuing a livelihood, the wages and benefits of unrealized work can be calculated.

In states without MICRA-style reforms, physicians are growing more reluctant to perform complex procedures, such as pediatric neurosurgery, for fear of being sued. This has resulted in children being forced to travel long distances for care—putting their lives at potential risk.

5. Myth: MICRA-style reforms, including a $250,000 hard cap on non-economic damages, unfairly target non-working spouses—especially women—who would not be able to collect any economic damages.

Fact: States without proven reforms are losing physicians willing to read mammograms—putting women at increased risk for delaying detection of preventable breast cancers. Furthermore, women in underserved and rural areas will be particularly hard hit by any further loss of obstetric providers. With the economic viability of practicing obstetrics already marginal due to sparse population and low insurance reimbursement for pregnancy services, an increase in medical liability insurance costs will force many

rural physicians to stop delivering babies, providing prenatal care and preventive care services.

In California, MICRA has enabled the critical "safety net" of community clinics to maintain services for California's rapidly growing uninsured and underinsured population. Should the current cap be raised, serious public health consequences for women are inevitable.

MICRA-style reforms also enable non-working spouses to collect money for child care costs or any other economic cost needed to provide care if an injury has taken place. In addition, juries often set a "salary" for non-working spouses for purposes of determining economic damages.

6. Myth: MICRA-style reforms, including a $250,000 hard cap on non-economic damages, unfairly target the elderly, who would not be able to collect any economic damages.

Fact: MICRA-style reforms would enable the elderly to collect any/all money needed to continue providing care. Without reforms, the elderly will likely see their access to care diminish when they can least afford it.

MICRA-style reforms preserve the elderly's access to specialists, such as orthopedic surgeons. In states without proven reforms, reports of physicians who say they no longer provide home-health care visits to the elderly are increasing. These visits are stopping due to rising liability insurance premiums and other factors, and it forces the elderly to potentially delay receiving preventive care, as well as incurring increased costs and difficulty associated with travel.

7. Myth: It is unfair to restrict attorneys' fees. Contingency fees are a built-in incentive which encourage plaintiffs' attorneys to take only meritorious cases.

Fact: The HEALTH Act empowers courts to maximize patients' awards by ensuring that an unjust portion of the patient's recovery is not misdirected to her attorney. Trial lawyers that link their payment to awards have an inherent incentive to generate as much litigation as possible and drag out proceedings as long as possible. Legislation like this will help expedite medical liability claims and discourage baseless lawsuits by limiting the incentive to pursue meritless claims. Without this limitation, attorneys could continue to routinely pocket large percentages of an injured patient's award, leaving patients without the money they need for their medical care.

8. Myth: Plaintiffs are required to prove an impossibly heightened standard of clear and convincing evidence for punitive damages.

Fact: The HEALTH Act places reasonable guidelines on punitive damages to make the punishment fit the offense. It appropriately raises the burden of proof for the award of quasi-criminal penalties to clear and convincing evidence to show either malicious intent to injure or deliberate failure to

act to avoid injury. The bill does not cap punitive damages. Rather, it delineates a guideline, allowing for punitive damages to be as much as $250,000 or two times the amount of economic damages awarded, whichever is greater.

9. Myth: Periodic payments of all future damages punish meritorious plaintiffs.

Fact: The HEALTH Act allows the money for future medical expenses to be paid periodically rather than in one lump sum. The bill does not reduce the amount a patient will receive. In fact, it protects the delivery of future health care because past and current expenses will continue to be paid at the time of judgment or settlement while future damages can be funded over time. This ensures that a plaintiff will receive all of the damages to which she is entitled in a timely fashion without risking the bankruptcy of the defendant.

10. Myth: It is the insurance companies' fault that liability insurance rates have skyrocketed. Insurers lost a lot of money in the stock market – and now they are making it up in premiums.

Fact: Insurance companies are required by law to make very conservative investments. They typically place about 80% of their investments in the bond market – not the stock market. In addition, insurers can not raise premiums to recover past losses. Medical liability premiums are strictly tied to estimates of future paid losses.

11. Myth: Insurance reform in California – specifically Proposition 103 – stabilized medical liability premiums in California, not MICRA.

Fact: The truth is, Proposition 103 had little or nothing to do with medical liability insurance. Since 1975, California's medical liability reforms have been responsible for protecting California's patients and keeping the insurance market stable. Proposition 103 does not prohibit insurers from raising rates. It merely states that if an insurer wants to raise rates by more than 15%, there must be public hearings.

12. Myth: Repealing McCarran-Ferguson — the federal law which provides a limited federal antitrust exemption for the business of insurance, subject to state regulation and oversight — would be more effective in lowering medical liability premiums.

Fact: The McCarran-Ferguson Act is the federal law authorizing state regulation of insurance. State regulators are required by law to reject rates that are excessive, inadequate or unfairly discriminatory. The exemption does not insulate insurers from the enforcement of state or federal antitrust laws in the context of anti-competitive business practices such as boycott, coercion or other intimidation in the marketplace. Repealing McCarran-Ferguson would do absolutely nothing to change the underlying reason for the rise in medical liability premiums – namely the explosion of meritless

litigation and skyrocketing jury awards.

D. Additional Myths

1. Myth: Tort reforms unfairly penalize patients and are ineffective in holding down premiums for physicians and hospitals.[116]

Fact: Awards of non-economic damages that are out of scale with equity or need are not fair to anyone, given that economic damages are unlimited. Thus, legislators must consider the needs of the greater public welfare to ensure access to care for all. Tort reforms reduce unfair penalties to patients by improving the fairness of awards and ensuring that more of it goes to patients than lawyers. Consider that the U.S. tort system returns less than fifty cents on the dollar to compensate injured parties.

Tort reforms hold down premiums. Compare California's premiums with those of the other large states. For example, 2005 manual rates for general surgeons in Los Angeles ranged from $29,830 to $68,007 while rates in Miami ranged from $179,292 to $229,420.

Furthermore, Prof. Kenneth E. Thorpe of Emory University concluded that, "[t]he empirical results indicate that the caps on awards adopted by several states were associated with lower loss ratios and lower premiums. ... Loss ratios in states capping awards were 11.7 % lower than in states without caps....Premiums in states with a cap on awards were 17.1% lower than in states without such caps."[117] He concluded, "Stopgap reforms (caps on rewards) of our current liability system would ultimately result in lower premiums (relative to their levels without the caps)."[118][119]

2. Myth: Rather than tort reform, more efforts should be directed at removing incompetent physicians and improving quality of care.

Fact: Removing "incompetent" physicians based on how many times they have been sued or have been found liable for negligence would be an extreme and ineffective method of trying to resolve the crisis because of the randomness of the litigation system. The vast majority of claims—almost 70 percent—have no merit.

Also, according to HHS, researchers have found that most errors are system failures, rather than failures of individual physicians. That is to say, most errors occur even though physicians perform their jobs correctly.

---

[116] *See e.g.,* ASS'N OF TRIAL LAWYERS OF AM., MED. MALPRACTICE FIBS & FACTS, *available at* http://www.atla.org/ConsumerMediaResources/Tier3/press_room/FACTS/medmal/medmalfibsfacts.aspx (last visited Feb. 12, 2004).

[117] Med. Liability Monitor, supra note 115, at 6-9.

[118] *Id.*

[119] Kenneth E. Thorpe, *The Medical Malpractice 'Crisis': Recent Trends and the Impact of State Tort Reforms,* HEALTH AFFAIRS, Jan. 21, 2004, at 28, *available at* http://content.healthaffairs.org/cgi/reprint/hlthaff.w4.20v1.pdf (last visited Feb. 3, 2004).

The AMA has been a leader in federal quality improvement legislation. The "Patient Safety and Quality Improvement Act" (P.L. 109-41) was passed by Congress with the strong input and support of the AMA and was signed into law by President Bush on July 29, 2005. The law establishes the framework to create a "culture of safety" whereby information on health care errors can be reported in a confidential and legally protected manner. The bill comports with the findings of Brennan et al., that since medical liability payments correlate with disability and not negligence[120] a better approach to reducing errors and improving patient safety is the creation of a confidential, voluntary reporting system, similar to the Aviation Safety Reporting System, in which physicians and other health care providers can report information on errors to entities known as Patient Safety Organizations (PSOs). This approach was also recommended by the Institute of Medicine in their seminal report, "To Err is Human."

According to a five-year follow-up article on the IOM report, the report has spurred the nation's health care system to take more proactive steps to prevent medical error, by means that include making positive changes to health care delivery practices and how health care views the task of error prevention.[121]

3. Myth: Tort reform will only benefit insurance companies and physicians.

Fact: Tort reform, including placing a reasonable cap on unquantifiable non-economic damages, would lower insurance premiums as well as costs borne by the entire health care system. If physicians' liability exposure is reduced, they are less likely to practice defensive medicine or limit the procedures they perform. The true beneficiaries of tort reform will be tax payers and patients who need access to critical medical care.[122]

4. Myth: Insurers can somehow remain financially viable without increasing revenue, or, in other words, raising rates.

Fact: Insurance is not magic. Large underwriting losses are not sustainable over the long term, and will merely result in less competition as insurers exit the market. Over the past decade, the profitability of medical liability insurers has been on the decline and was lower than that of other property casualty insurers. Underwriting profitability is measured by the combined ratio after policyholders' dividends. A ratio less than 100 indicates that an insurer is earning an underwriting profit. The lower the ratio, the higher the profit rate. In 2004 the combined ratio of medical liability insurers was 112.3. This means that for every $1 insurers received

---

[120] Troyen A. Brennan, Colin M. Sox & Helen R. Burstin, *Relation between Negligent Adverse Events and the Outcomes of Medical-Malpractice Litigation*, 335 N. ENG. J. MED. 1963 (1996).
[121] *Study Sees Progress in Prevention of Mistakes in Wake of 1999 Report,* HEALTH CARE DAILY, May 18, 2005.
[122] BLUE CROSS BLUE SHIELD ASS'N, *supra* note 10, at 2.

in premiums in 2004 they paid out $1.12. In comparison, the 2004 combined ratio of all property casualty insurers was 98.1.[123]

E. GAO Reports

1. A report released July 28, 2003, by the U.S. General Accounting Office confirmed that medical liability premiums have skyrocketed in some states and specialties -- and increased losses on claims are the primary contributor. The report also put to rest two main opponent smokescreens: that insurance company gouging and/or stock market losses have caused the medical liability crisis. This report made clear that bonds make up 80 percent of insurers' investments and that 'no medical malpractice insurers experienced a net loss on their investment portfolios.' The GAO report also stated that insurer 'profits are not increasing, indicating that insurers are not charging and profiting from excessively high premium rates.' It also noted that insurance regulators in most states have the authority to deny excessive premium rates. [124]

2. While verifying that the liability crisis has affected access to health care services, the GAO made several determinations in its August 2003[125] report that the AMA believes do not accurately reflect the severity of the current crisis in real time. Numerous changes to the GAO methodology would strengthen the basic findings of this report. Among the data sources, measures, or analytical methods that could be improved are the following:

   a. *Appropriate measurement of physician mobility.* The number of physicians actively practicing in a state cannot be measured by the number of licenses issued by a state medical board. The Federation of State Medical Boards explain that 60 percent of physicians have a license in more than one state. Furthermore, a physician may maintain his or her license in a former state of residence, but not practice there. Or for instance, an Ob-Gyn may maintain a license to practice both gynecology and obstetrics in more than one state, but may just see gynecological patients and not deliver babies in either state. Retired physicians also may choose to maintain their licenses though they no longer practice. These facts are not reflected in state licensure data. Actual physician practice location information must be used instead.

---

[123] AM BEST, BEST'S AGGREGATES & AVERAGES - PROPERTY/CASUALTY, U.S. AND CANADA: 2005 ed. (2005), 398, 404.

[124] U.S. GEN. ACCOUNTING OFFICE, MED. MALPRACTICE INS.: MULTIPLE FACTORS HAVE CONTRIBUTED TO INCREASED PREMIUM RATES 15, 15 (2003), *available at* http://www.gao.gov/new.items/d03702.pdf (last visited Feb. 3, 2004).

[125] U.S. GEN. ACCOUNTING OFFICE, MED. MALPRACTICE: IMPLICATIONS OF RISING PREMIUMS ON ACCESS TO HEALTH CARE (2003), *available at* http://www.gao.gov/new.items/d03836.pdf (last visited Feb. 3, 2004).

b. *More accurate counts of physicians by specialties and local markets.* Physician/population ratios that aggregate physicians across local markets and specialties obscure the significant market-specific or specialty-specific changes in the supply of physicians and availability of critically important medical services.

c. *Use of multi-payor data to accurately measure access to health care services that Medicare data alone do not capture.* Utilization statistics based exclusively on data from a single payor (Medicare) exclude data for obstetric and emergency care, and fail to capture the impairment of access among other vulnerable populations, such as Medicaid patients.

d. *Use of current source of data to capture the magnitude of the access problem in real time.* The GAO accorded no weight to current sources of data which reflect the magnitude of impairment of patient access today.[126]

F. Health Affairs article[127]

1. Background: The authors acknowledge that while their research is focused on Pennsylvania physicians, they also state: "[our findings] do provide a lens into the environment in states in severe malpractice crisis—a point at which several states have already arrived, and toward which many others appear to be headed.[128] The AMA believes the authors' findings would be largely similar if the scope of the research were expanded to the other 19 states in a full-blown medical liability crisis.

2. The survey concluded:

a. Among physicians in high-risk PA counties, 81 percent agreed that "because of concerns about malpractice liability, I view every patient as a potential malpractice lawsuit."

b. 62 percent said that "the malpractice system limits doctors' ability to provide the highest quality medical care *a great deal*."[129]

c. The authors make the suggestion that "the malpractice crisis in Pennsylvania is decreasing specialist physicians'

---

[126] HEALTH SERVICES RESEARCH INST., PENN. MED. SOC'Y, PENNSYLVANIA'S MED. LIABILITY CRISIS & MED. MARKETPLACE ISSUES (2003) (Concluding that the GAO's misleading and inadequate evidentiary survey contributed to the report's failure to identify an ongoing and worsening access problem).
[127] David Studdert, Michelle Mello, et al., *Caring for Patients In A Malpractice Crisis: Physician Satisfaction And Quality of Care*, 23 HEALTH AFFAIRS, 2004 at 42-53.
[128] *Id.* at 43.
[129] *Id.* at 48.

satisfaction with medical practice in ways that may affect the quality of care. They also accurately note that while "Pennsylvania is among the three or four states hit hardest by rising liability costs . . . all indicators point toward a deepening of the malpractice crisis in other states."[130]

d. The authors are right to be concerned with the increasing dissatisfaction among the physician community. Physicians, like all individuals, adapt to their situation and those adaptations are not always positive. For example, if a person with a degenerative hip does not seek treatment, the person may compensate and wind up hurting his or her knee. For Pennsylvania health care, the adaptations include more physicians giving up high-risk procedures and more patients losing access to care.

e. The authors found that while 70 percent of specialists surveyed would be very or somewhat likely to recommend their specialty to a recent medical school graduate, only 15 percent would recommend practicing in Pennsylvania, thus confirming the lasting impact of this crisis on the future of medicine in Pennsylvania.

IV. Patient Safety Efforts

A. Quality of care declines when patients are denied access to physicians.

B. A culture of safety requires a legal environment that encourages professionals and organizations to work together to identify problems in providing care, evaluate the causes, and use that information to improve care for all patients.

C. A recent New England Journal of Medicine report declares that, "... in spite of the mission of malpractice law to improve the quality of care through deterrence—indeed, perhaps because of it—the fear of litigation obstructs progress in ensuring patient safety."[131]

D. The current litigation system does **not** encourage a culture of safety because it:

1. Encourages defensive medicine.

2. Creates a lottery mentality throughout the nation's court system.

3. Enriches certain trial lawyers at the expense of patients and physicians.

---

[130] *Id.* at 51-2.

[131] David Studdert, Michelle Mello & Troyen Brennan, *Medical Malpractice,* 350 NEW ENG. J. MED., 283, 287 (2004).

E. The Harvard Medical Practice Study used New York State hospital and medical professional liability claim data to estimate the incidence of adverse events among hospitalized patients and to characterize the relationship between adverse events and medical liability claims. The study found that "... a substantial majority of malpractice claims filed are not based on actual provider carelessness."[132] In fact, the authors found that negligence had occurred in only one-sixth of the filed claims.[133] Finally, they concluded that "in its initial filing stage the tort system is even more error-prone than the medical care system."[134]

One of the authors of the Harvard Study, Troyen A. Brennan and two colleagues, conducted a follow-up in 1996.[135] They found that the only significant predictor of payment to medical liability plaintiffs in the form of a jury verdict or a settlement was the severity of a patient's disability, and *not* the presence of an adverse event due to negligence.[136]

The Institute of Medicine report "To Err is Human" (the "IOM Report") used information from the Harvard Study to speculate that up to 98,000 deaths per year are due to preventable medical errors. While there are many reasons to take issue with the way that particular estimate was derived[137], the principal finding of the report was that the vast majority of patient injuries are due to defects in the systems of medical care delivery, and not due to negligence on the part of providers. True advocates of patient safety -- such as the AMA and the IOM -- are fighting to replace the fault-based, adversarial medical liability system (which gives all parties strong incentives to conceal errors and system defects) with a system that encourages all parties to promote patient safety by reporting errors and system defects. However, trial lawyers stand in firm opposition to changing our broken liability system, because today's injured patients are tomorrow's multimillion dollar clients.

F. AMA policy is to be part of the solution, not the problem. The AMA believes that one preventable error is one error too many. In fact, the AMA helped launch the National Patient Safety Foundation in 1996, well before publication of the IOM report, and has contributed $7.3 million to the Foundation's efforts. The Foundation's approach is to create a culture of cooperative learning and mutual improvement, as opposed to a culture of shame and blame.

---

[132] PAUL C. WIELER ET AL., A MEASURE OF MALPRACTICE: MEDICAL INJURY, MALPRACTICE LITIGATION & PATIENT COMPENSATION 140 (Harvard University Press 1993).
[133] *Id.* at 139.
[134] *Id.* at 140.
[135] Troyen A. Brennan, Colin M. Sox & Helen R. Burstin, *supra* note 140.
[136] *Id.* at 1965.
[137] For example, McDonald et al. find that the underlying studies of the IOM report were "observational," not intended "to describe causal relationships." The authors state "The Harvard study includes no information about the baseline risk of death in these patients or information about deaths in any comparison group. Therefore, it cannot be determined whether adverse events are correlated with, let alone whether they cause, death." The authors comment that "reliance on studies without controls to make headline claims about huge numbers of preventable deaths was one error it did not catch." *See* Clement J. McDonald et al., *Deaths Due to Medical Errors Are Exaggerated in Institute of Medicine Report*, 284 JAMA 93, 93 (2000).

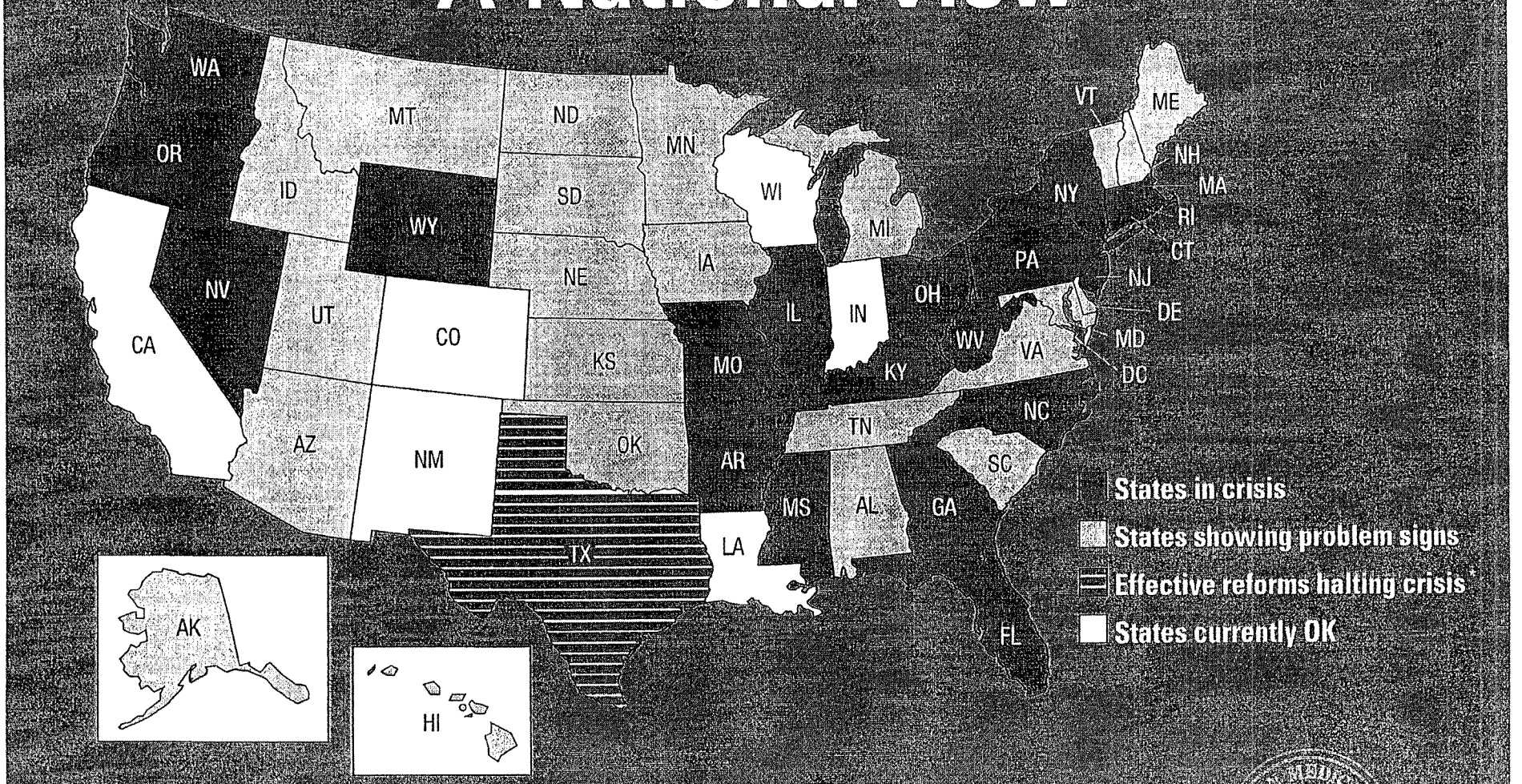
G. On July 29, 2005, President Bush signed the "Patient Safety and Quality Improvement Act" (P.L. 109-41). The AMA was instrumental in the bill's passage and enactment into law. It creates a confidential, voluntary reporting system in which physicians and other health care providers can report information on errors to entities known as Patient Safety Organizations (PSOs). The PSOs collect and analyze unique "patient safety data" that is confidential and legally protected.

Note: The most current version of this document can be accessed electronically by visiting the AMA Web site: http://www.ama-assn.org/go/mlrnow

Additional background and data can be found on the AMA Web site at http://www.ama-assn.org/go/liabilityreform

Index - All references are to outline numerals.

America's Medical Liability Crisis: A National View



May 2005

* In addition to a cap on non-economic damages, Texas voters passed a constitutional amendment.

Together we are stronger.

AMA AMERICAN MEDICAL ASSOCIATION

Press the print button on your browser.
Click here to return to the previous page.

Arkansas

America's Medical Liability Crisis Backgrounder

Arkansas

Although Gov. Mike Huckabee signed legislation March 25, 2003,that contains provisions supported by physicians, the law does not include a cap on non-economic damages. (AMA analysis)

Arkansas' Constitution prohibits any limit on damages awarded as a result of personal injury or death, barring the legislature from enacting a cap on non-economic damages.

Paid losses for liability carriers tripled from 1992-2000, and then doubled from 2000-2001. For the year 2001, total liability premiums were $39 million, with actual paid losses and legal expenses totaling $77 million.*

For every $1 Arkansas medical liability insurers received in premiums, they paid out $1.61 in jury awards and settlements in 2001. (National Association of Insurance Commissioners)

there is an average of 135 physicians per 100,000 residents in states with caps on non-economic damages. In Arkansas, there are only 92 physicians per 100,000 residents—the 5th lowest in the United States. (HHS Agency for Healthcare Research and Quality, July 3, 2003)

Arkansas physicians saw their premiums increase 829% between 1976 and 2000, while California physicians only saw a 167% increase during the same time period. California has had a $250,000 cap on non-economic damages since 1975. (National Association of Insurance Commissioners)

the Arkansas Insurance Department reportsthat 88 companies carried liability polices in 1996. In 2003, only nine did. Only four companies are considering new policies, said Lenita Blasingame, deputy commissioner. (Arkansas Democrat-Gazette, March 2, 2003)

Seventy percent of the medical malpractice cases filed over a 10-year period were dismissed before they went to court, but not before an average of $10,000-$15,000 was spent defending each one or before the cases were noted on the named physician's permanent record, according to information compiled by the Arkansas Medical Society. (Arkansas Business, December 1, 2003)

According to a report from HHS detailing states without reasonable limits on non-economic damages have experienced very significant premium increases from 2001 to 2002, Arkansas has one of the highest rate increases reported - 112% - for any of the three specialties measured (internists, general surgery, obstetrics/gynecology). (U.S.

Department of Health and Human Services, Addressing the New Health Care Crisis, March 3, 2003)

Several physicians have discontinued their nursing home practice because of increased exposure and/or lack of insurance coverage for the nursing homes. Currently, there are no carriers writing new nursing home coverage.thosethat have coverage have seen their premiums go up 1000% or more. Many nursing homes have been forced to "go bare because of unaffordability or unavailability.*

the emergency room at the Little River Memorial Hospital in Ashdown, Ark., was in danger of closing when the hospital could not find an insurance carrier. the hospital was paying $50,000 per year, and could only obtain new coverage for $200,000, a 300% increase.*

A 13-physician group of obstetricians at Fayetteville's FirstCare Family Doctors was forced to stop delivering babies after the group's primary insurer left the state and affordable insurance was not available. "This situation has totally disrupted the way of life we love here," said Sara McBee, MD. (Arkansas Business Jan. 13, 2003)

Morethan 50 percent of physicians surveyed reported they've been forced to reduce or discontinue one or more medical services in the last two years due to rising liability insurance premiums. "Surgery and o ther procedures" was cited as the most common service cut, followed by emergency-room care, "treating patients at nursing homes," on-call duty and obstetrics.*

Morethan two-thirds of physicians surveyed said they were "extremely likely" or "very likely" to make changes in the services they provide if liability insurance premiums continue to rise.*

90 percent of physicians surveyed say they've been forced to practice "defensive medicine" and 80 percent are less willing to perform high-risk procedures.*

*(Information obtained from the Arkansas Medical Society, March 2003)

Updated January 2004
American Medical Association

Printable version:
Arkansas Medical Liability Crisis State Backgrounder
(PDF, 32KB, requires Adobe® Reader®)

Current State Law – Arkansas

Damage Caps – None, Constitution prohibits caps on damages.

Joint Liability Reform – Yes. Except where the court determines, upon motion by the plaintiff and by a preponderance of the evidence,that all or part of each defendant's share will not be reasonably collectible. the court shall increase the percentage points of the several share attributed to each of the remaining defendants as follows: defendants 10% or less at fault - no increase; defendants 10-50% at fault – no morethan a 10% increase; defendants 50% or more at fault – no morethan a 20% increase.

Collateral Source Reform – No

Attorney Fees Limited – No

Periodic Payments Permitted – Yes, mandatory, upon motion by ei ther party, for future damages in excess of $100,000.

Contacts
For fur ther information contact:

Kimberly Horvath, JD, Senior Legislative Attorney

Phone: (312) 464-5033
E-mail: kimberly.horvath@ama-assn.org

Terri Marchiori, Director State and County Relations
Phone: (312) 464-5271
E-mail: teresa.marchiori@ama-assn.org

Arkansas Medical Society
David Wroten, Assistant Executive Vice President
Phone: (501) 224-8967
E-mail: dwroten@arkmed.org
Web site: www.arkmed.org

Last updated: Sep 13, 2005
Content provided by: Media Relations

Press the print button on your browser.
Click here to return to the previous page.

Connecticut

Connecticut Backgrounder

Current State Law

Contacts

America's Medical Liability Crisis Backgrounder

Connecticut

Lawsuit abuse is causing liability insurers to bail out of Connecticut. The number of insurers has decreased from eight in 2000 to only three today. Connecticut Medical Insurance Co., one of the two remaining, had 19 settlements or jury awards of $1 million or more in 2002, compared with nine in 1997. (CMIC)

From 1997 to 2002, total losses increased from $131 million to $223 million. Recent jury awards have included verdicts of $20 million, $8 million and $4 million. (CMIC)

Physicians in Connecticut are close to the breaking point because of sharply increasing premiums. Since 1999, obstetricians, neurosurgeons, radiologists and neurologists have seen their premiums increase between 118 percent or more. Obstetricians are facing premiums close to $125,000. (CMIC)

Despite strong support from the governor and a coalition of health and consumer groups, the Connecticut legislature refuses to support proven medical liability reforms. In 2004 Governor Rowland was forced to veto a medical liability reform bill because the legislature failed to include a cap on non-economic damages in the bill. (AMA analysis)

Despite charging high insurance premiums, Connecticut insurers have not been able to keep pace with large jury awards and settlements. Between 1998 and 2001, insurers have paid out $205,324,363 more than they have collected in direct premiums written. (National Association of Insurance Commissioners)

A preliminary survey indicates that as of January 2003, 28 Connecticut obstetricians made the difficult decision to no longer deliver babies. On average, each obstetrician delivers about 100 babies a year, so this means that at least 2,800 mothers-to-be will have to find another obstetrician, according to the Connecticut State Medical Society. (*The Hartford Courant*, Feb. 3, 2003.)

21 percent of Connecticut physicians are no longer accepting Medicaid patients due to medical liability insurance increases. 38 percent of physicians have been forced to eliminate or reduce charity care. (Research 2000, Sept. 2003)

57 percent of physicians have increased the number and frequency of tests to avoid being sued. (Research 2000, Sept. 2003)

The average payment made by one of Connecticut's major insurers to resolve a claim has risen from $271,000 in 1995 to $536,000 in 2001. And the demise of insurer St. Paul in 2001 forced Ob-gyn Jose Pacheco, MD, to seek another carrier. However, because of the

high cost of new insurance-estimated around $60,000-combined with "tail" coverage of $80,000, Dr. Pacheco retired after a 27-year career. (*The Hartford Courant*, Nov. 17, 2002)

Patients who prefer female Ob-gyns could be in for some bad news, according to Nancy Bernstein, president of Women's Health Connecticut, a network of 157 Ob-gyns. Sharply escalating premiums, which are increasing between 20 to 72 percent, are behind the decision of Jodi Leopold, MD, to give up obstetrics. Instead of paying $64,512, she'll only owe $23,900. "It is impossible to live through the stress of doing obstetrics and know you're losing money doing this," Dr. Leopold said. (*The Hartford Courant*, Nov. 17, 2002)

Experienced Ob-gyn and teacher Dr. Benson Horowitz is so disgusted with the system that he fears giving advice to new obstetricians because that might implicate him in a future medical negligence lawsuit. "It's almost like you're been a beneficiary of knowledge, but you can't be a benefactor," he said. (*The Associated Press*, May 11, 2004)

Dr. Dickerman Hollister, an oncologist and former chief of staff at Greenwich Hospital, said fewer physicians means less access for patients. "It has reached a point where physicians cannot provide services and access to patients," he said. "What's going to happen is that people are going to lose the ability to see the physician of their choice." Hollister said female obstetricians and gynecologists are especially impacted. Many of those women work part time to mind their own children, he said, but since they must still pay full insurance premiums, they are forced to close their practices. "That's the canary in the coal mine," Hollister said. (*Greenwich Time*, April 24, 2004)

After two decades, Dr. Jeffery Lane has decided he can no longer afford to deliver babies and will refer as many as 30 current patients to other physicians when he drops Ob as of July 1, 2004 because of skyrocketing insurance premiums. "I really feel for my patients, who I've had to tell I won't be delivering them because they're due after my July first deadline." Dr. Lane said that it takes nearly forty deliveries to pay for his insurance, but since he only delivers seventy-five babies a year, he's had to use personal savings to pay the insurance premiums. (WFSB, CT, May 9, 2004)

Updated June 1, 2004
American Medical Association

Printable version:
Connecticut Medical Liability Crisis State Backgrounder
(PDF, 35KB, requires Adobe® Reader®)

Current State Law - Connecticut

Damage Caps - None

Joint Liability Reform - Yes. Defendants are responsible only for their proportionate share of negligence. However, if within one year after the final judgment the court determines that all or part of a defendant's proportionate share is uncollectible, it shall reallocate the uncollectible noneconomic damages among other defendants according to their percentages of negligence. The court may not reallocate to any such defendant an amount greater than that defendant's percentage of negligence multiplied by such uncollectible amount.

Collateral Source Reform - Yes, benefits from collateral sources must be disclosed and used to reduce recoverable economic damages, minus any amount paid by the claimant to secure the benefit.

Attorney Fees Limited - Yes, limited to 33 1/3% of the first $300,000; 25% of the next $300,000, 20% of the next $300,000, 15% of the next $300,000, and 10% of amounts exceeding $1.2 million.

Periodic Payments Permitted - For damages exceeding $200,000, the court shall give the parties 60 days to negotiate an agreement on method of payment, either in lump sum, periodic payments, or a combination thereof. If they cannot agree, the judge must order payment in a lump sum.

Contacts

For further information contact:

Kimberly Horvath, JD, Senior Legislative Attorney
Phone: (312) 464-5033
E-mail: kimberly.horvath@ama-assn.org

Terri Marchiori, Director State and County Relations
Phone: (312) 464-5271
E-mail: teresa.marchiori@ama-assn.org

Connecticut State Medical Society
Tim Norbeck, Executive Director
Phone: (203) 865-0587
E-mail: tnorbeck@csms.org
Web site: www.csms.org

Last updated: Sep 12, 2005
Content provided by: Media Relations

AMA AMERICAN MEDICAL ASSOCIATION

Press the print button on your browser.
Click here to return to the previous page.

Florida

Florida Backgrounder

Current State Law

Contacts

America's Medical Liability Crisis Backgrounder

Florida

More than 1,600 doctors from across Florida gave sworn statements to a state Senate panel in August 2003 detailing how the state's medical liability crisis forced them to change their practices, including no longer providing services such as delivering babies and performing complex surgeries. (Florida Medical Association)

After months of intense debate and three special legislative sessions, Florida's legislature enacted S.B. 2 in August 2003. As enacted, the bill does not provide the level of reforms recommended by the bipartisan Task Force on Health Care Professional Liability Insurance or advocated by the Florida Medical Association. In particular, the bill failed to enact a proven cap on non-economic damages, opting instead for a $500,000 cap on non-economic damages for claims filed against a practitioner and a $750,000 cap on non-economic damages for claims filed against non-practitioners. Both caps are subject to broad exceptions. (AMA analysis)

Florida obstetricians are increasingly deciding to no longer deliver babies or self-insure in the face of Florida's harsh legal climate and the highest premiums in nation-nearly $250,000 for obstetricians in South Florida. Many surgeons also are limiting procedures rather than face premiums topping $226,000. (AMA analysis, Medical Liability Monitor)

More than 5 percent of Florida's roughly 47,700 active medical doctors don't have liability insurance coverage, up from 4 percent a year ago, according to Florida Department of Health statistics. In Miami-Dade County, nearly 20 percent of the county's 6,360 active medical doctors self-insure. (*Sun-Sentinel*, Feb. 1, 2004)

At least seven Florida hospitals have closed their obstetrics units due to insurance concerns, and four other hospitals have reduced or limited obstetrics services. In addition, ten hospitals have eliminated, reduced or limited neurosurgical services. (Florida Hospital Association, Jan. 2, 2003)

Lee Memorial Health System officials announced they were giving the state a required six months' notice to close the trauma center after two neurosurgeons quit, leaving only two to handle 24-hour on-call duty. The center treats more than 1,000 trauma-alert patients a year. Recruitment efforts to bring neurosurgeons to Lee County have been disappointing. "The fact is, three trauma centers in Florida have notified the state that they can't hang on much longer," according to Lee Memorial's government consultant. (*The News-Press*, December 14, 2003)

Several neurosurgeons have left Palm Beach County and others have scaled back their practices because of concerns that emergency cases put them at higher risk for medical malpractice lawsuits. Only four neurosurgeons now handle emergency calls at the 13

hospitals in the county, increasingly leaving ERs with no one available, especially in the middle of the night and on weekends, health officials said. (*Sun-Sentinel*, March 13, 2004)

Patients from as far north as Palm Beach Gardens and as far west as Wellington routinely are being transported to hospitals in Broward and Miami-Dade counties, and sometimes to hospitals in central and northern Florida for emergency neurosurgical care, doctors and hospital officials said. Additional specialists cutting back emergency room coverage include hand surgeons, ophthalmologists and plastic surgeons. (*Palm Beach Post*, March 6, 2004)

FPIC, a leading medical liability insurance carrier in Florida said during 1975 there were 380 law suits for medical negligence allegations resulting in $10.8 million in jury awards, costing $1.5 million to defend. In 2000 there were 880 lawsuits resulting in awards of $219 million, costing $36 million to defend.

100% of South Florida neurosurgeons have been sued, according to surveys of area physicians. In fact, 31% of physicians also have limited their practice in hospital settings, and physicians in South Florida can expect to be sued 1.44 times in their career. (Floridians for Quality Affordable Healthcare)

86% of Florida voters support a $250,000 limit on non-economic damages. (Tarrance Group, Feb. 2003)

North Florida Surgeons — a Jacksonville surgical group that has never lost a single case in court — was forced to close its doors in 2003 because skyrocketing medical liability premiums, claims and losses are threatening its existence. The general surgeons have a combined 140 years of experience, treated more than 88,000 patients in the past 8 years-providing 30 percent of the on-call surgeons at area hospital emergency rooms. (*Business Wire*, May 8, 2003) Although NFS eventually found a way to resume most of its patient services - thanks to a stop-gap insurance arrangement that may or may not hold for the long term - the 2003 crisis and its aftermath has decimated its physician roster. Several key doctors have left the practice to either retire early or move to more physician-friendly states with comprehensive tort reform.(Florida Medical Association, April 2003)

Three years ago, Arthur Pedregal, a 36-year-old Tampa neurologist, paid less than $6,000 for $1 million of liability insurance. This year, he paid $250,000 for one-fourth of the coverage. Dr. Pedregal is a father of two, paying off $200,000 in student loans, plus a business loan to buy his medical practice. He lives in a house that he bought for $68,500, drives a Ford pickup and takes home less than $100,000 a year. In February, he didn't pay himself. (*Tampa Tribune*, March 7, 2004)

When he moved to Taos, N.M., this year, giving up his Tampa urology practice of 19 years, Alden Cockburn became anecdotal proof that doctors are leaving Florida because of high malpractice rates. (*Tampa Tribune*, March 7, 2004)

Manatee Obstetrics & Gynecology physicians said they will end obstetrical services at the practice this September due to the rising cost of medical liability insurance. (*Bradenton Herald*, April 15, 2004)

Updated March 15, 2003
American Medical Association

Printable version:
Florida Medical Liability Crisis State Backgrounder
(PDF, 38KB - requires Adobe® Reader®)

Current State Law - Florida

Damage Caps - For physicians, $500,000 cap on non-economic damages per claimant with any one physician not responsible for more than $500,000. For nonpractitioners, $750,000 cap on non-economic damages. The cap increases to $1 million in non-economic damages for physicians if the negligence resulted in death or a permanent vegetative state or if the court finds that a manifest injustice would occur unless the non-economic damages cap was increased because the non-economic harm sustained by the patient was particularly severe and the defendant's negligence caused a catastrophic

injury to the patient. (2003)

Joint Liability Reform - Joint and several liability does not apply to non-economic damages. Joint and several liability applies to part of the economic damages awarded, based on the claimant's percentage of fault and the particular defendant's percentage of fault.

Collateral Source Reform - Yes, and the court must reduce damages by the amounts paid to the claimant from collateral sources. If a right of subrogation exists, there is no reduction in damages. Benefits received by the government sources are not considered collateral benefits.

Attorney Fees Limited - Patients receive 70 percent of the first $250,000 awarded and 90 percent of the remainder of the award. Attorneys will still get payment for court and witness expenses.

Periodic Payments Permitted - Yes, for future economic awards exceeding $250,000, the court must order periodic payments at the request of any party unless the court determines that manifest injustice would result to any party.

Contacts

For further information contact:

Kimberly Horvath, JD, Senior Legislative Attorney
Phone: (312) 464-5033
E-mail: kimberly.horvath@ama-assn.org

Darren Streff, Field Representative
Phone: (312) 464-4248
E-mail: darren.streff@ama-assn.org

Florida Medical Association
Lisette Gonzalez Mariner, Director of Communications
Phone: (850) 224-6496
E-mail: LGonzalez@medone.org
Web site: www.fmaonline.org

Last updated: Sep 13, 2005
Content provided by: Media Relations

AMA AMERICAN MEDICAL ASSOCIATION

Press the print button on your browser.
Click here to return to the previous page.

Georgia

Georgia Backgrounder

Current State Law

Contacts

America's Medical Liability Crisis Backgrounder

Georgia

The Georgia Board for Physician Workforce in October 2003 updated the effects of the medical liability crisis on access to care for Georgia's patients. The study showed:

- 17.3 percent of physicians stopped providing high-risk procedures during the previous year as a result of rising liability insurance premiums. General surgeons (27.5 percent), Ob-gyns (25 percent) and orthopedic surgeons (22 percent) were the specialists most affected. This follows a 17.8 percent reduction in 2002.
- A GBPW January 2003 survey found the number of physicians going to practice in rural areas of the state has decreased by 50% from 2002 to 2003.

Succumbing to pressure from the trial bar, the Georgia state legislature was unable to pass reforms in 2003, including a cap on non-economic damages. Prospects for reform in 2004 are uncertain. (AMA analysis)

The average jury award in Georgia has more than doubled since 1995 from $215,000 to $458,000 in 2002. The number of $1 million or greater awards has nearly tripled from 4 to 15. (MAG Mutual, May 2003)

Georgia's ongoing crisis has negatively affected patient access for children, women and families throughout the state:
- Only seven pediatric neurosurgeons are left in the state.
- Women in Statesboro often wait between 6 - 9 months for routine mammogram since fewer radiologists are willing to read mammograms.
- Nine Macon obstetricians have stopped delivering babies or will soon do so.
- Two of three obstetricians in Eastman have left the state, leaving the remaining obstetrician to deliver nearly 200 babies without backup coverage.
(Medical Association of Georgia)

Gainesville ob-gyn Linda Harrell, 49, learned in November that her insurance premiums had more than doubled in two years and she's now contemplating retirement. "How can you budget for increases like that?" Harrell asked. "I wanted to retire on my own terms. I didn't want to be run out." (*The Atlanta Journal & Constitution*, February 8, 2004)

Thandeka Myeni, a student at the Medical College of Georgia, reconsidered her preference for obstetrics because of the medical liability crisis. (AMA Medical Student Survey, Dec. 2003)

More than two dozen medical liability insurers have left Georgia, according to MAG Mutual, one of the state's remaining carriers. Since 1995, MAG Mutual's average payout in jury awards and settlements has increased from $215,000 a case to $465,300. Last

year, it paid claims in 20 cases of more than $1 million. (*The Atlanta Journal & Constitution*, February 8, 2004)

Hospitals throughout the state have seen their premiums skyrocket and have been forced to take severe measures:
- Rural hospital, Evans Memorial in Claxton, decided to "go bare" — rather than pay an annual premium — for only $1 million in coverage — of $581,000, which was up from $216,000. (*The Atlanta Journal & Constitution*, Oct. 7, 2002)
- 40 percent of the state's hospitals saw premium increases of 50 percent or more in 2002. Rural hospital in Bainbridge faced an increase from $140,000 to $970,000. (Medical Association of Georgia)
- The largest hospital in the state's health system bought a new policy — with a deductible of $15 million - covering 953-bed Grady Memorial, a nursing home and clinics. (*The Atlanta Journal & Constitution*, Oct. 7, 2002)
- Ty Cobb Health System saw its premium jump from $553,000 to $3.15 million — a 469 percent increase. "There goes our expansions, like a renovation of the Hart County Emergency Room," said the CEO. (The Atlanta Journal & Constitution, Aug. 11, 2002)

General surgeon Bradley Carmen said that rising insurance costs are having a big impact in the medical profession, including at his hospital — Marietta Memorial — where he said four surgeons have moved out of state in the last year because of medical malpractice insurance costs. "It's difficult to get insurance even if we haven't had lawsuits before. We've been non-renewed twice for no reason and had 100 percent cost increases for insurance in the last couple of years. We really sit on pins and needles." (*Marietta Times*, April 15, 2004)

The Athens Women's clinic, which has offered obstetrics services for 35 years, announced May 21 that the state's medical liability crisis was forcing it to no longer deliver babies. It will continue to offer gynecological services. (Athens Banner-Herald, May 21, 2004)

Updated June 1, 2004
American Medical Association

Printable version:
Georgia Medical Liability Crisis State Backgrounder
(PDF, 38KB - requires Adobe® Reader®)

Current State Law - Georgia

Damage Caps - $250,000 cap on punitive damages. (1992)

Joint Liability Reform - Defendants can be held jointly and severally liable for non-economic and economic damages if the claimant is without fault. If the plaintiff is to some degree responsible for the injury or damages claimed, the trier of fact may apportion damages among the persons who are liable and whose degree of fault is greater than the claimants, based on the degree of fault of each person. In this case, the parties shall not be held jointly liable.

Collateral Source Reform - No

Attorney Fees Limited - No

Periodic Payments Permitted - No

Contacts

For further information contact:

American Medical Association

Kimberly Horvath, JD, Senior Legislative Attorney
Phone: (312) 464-5033
E-mail: kimberly.horvath@ama-assn.org

Terri Marchiori, Director State and County Relations
Phone: (312) 464-5271
E-mail: teresa.marchiori@ama-assn.org

Medical Association of Georgia
Kathy Browning, Director of Communications
Phone: (404) 881-5055
E-mail: kbrowning@mag.org
Web site: www.mag.org

Last updated: Sep 13, 2005
Content provided by: Media Relations

AMA AMERICAN MEDICAL ASSOCIATION

Press the print button on your browser.
Click here to return to the previous page.

Illinois

America's Medical Liability Crisis Backgrounder

Illinois

In February 2003, two Joliet neurosurgeons gave up brain surgery, leaving the city's only two hospitals without full-time coverage for head trauma cases. Joliet's two hospitals, Silver Cross Hospital and Provena St. Joseph Medical Center, acknowledge they will be unable to handle all emergency head trauma cases. They say they may have to stabilize and transport serious cases 45 minutes to the nearest trauma center. (*Chicago Tribune*, Feb. 16, 2003)

The last two brain surgeons in Southern Illinois are leaving because of medical liability insurance premiums of nearly $300,000 a year. Neurosurgeons B. Theo Mellion and Sumeer Lal of Neurological Associates of Southern Illinois turned in their resignations to Southern Illinois Healthcare, said Tom Firestone, chief executive officer of SIH and will leave this summer. (*UPI*, February 25, 2004)

Illinois' legislature has enacted meaningful medical liability reforms on three previous occasions-only to have the laws struck down each time by the Illinois Supreme Court. In Illinois, no limits are placed on non-economic damages and defendants can be held joint and severally liable. (AMA analysis)

Soaring liability insurance premiums is a problem that affects doctors throughout Illinois, but it is most visible near state borders, where doctors can more easily move out of Illinois to save money. Madison and St. Clair counties, both across river from Missouri, have been hit hardest. "What is happening in Madison and St. Clair counties is 50 physicians have left in the last two years," Senate Minority Leader Frank Watson said. (*The State Journal-Register*, January 15, 2004)

When three ob-gyns on staff at Advocate Lutheran General Hospital in Park Ridge learned their 2004 liability insurance premiums would climb from $345,000 to $510,470, they decided to take their practice to Kenosha, where during their first year their combined insurance will cost $50,018. "This state is like the Titanic," said one of the doctors. "A year ago, we saw the iceberg. Now we've already hit." (*Chicago Tribune*, March 12, 2004)

Dr. Susan Hagnell grew up in Chicago's Rogers Park neighborhood, attended medical school in Illinois and delivered well over 700 babies at hospitals in the northwest suburbs. But when her liability insurance bill soared from $71,848 to $118,742 last summer, Hagnell decided to jump the border. Now she delivers Wisconsin babies. "If I knew what was going to happen, I would never have become an obstetrician/gynecologist." (*Chicago Tribune*, March 12, 2004)

Because of payouts that have climbed 59% in the last two years to $612,000, and frequency of lawsuits filed jumping 36% over the last nine months, Illinois' major medical

liability insurance company-ISMIE-announced a rate increase of 35.2 percent for its 14,000 existing policyholders. The higher rates took effect July 1, 2003. (*Copley News Service*, April 30, 2003) Premiums for select specialties in the Chicago metro area (Note: Rates are according to ISMIE)

2002 2003
Obstetricians: $103,000 $140,000
Neurosurgeons: $168,000 $228,000
Internal Medicine: $26,000 $36,000

In 2002, non-economic damages comprised 91% of the average total monetary value awarded by a jury. In 1997, it was 67%. (Cook County Jury Verdict Reporter)

The Family Health Partnership Clinic in McHenry County was almost forced to close after seven years because it could not find insurance coverage. At the 11th hour, it found coverage, but the premiums quadrupled from $7,000 to $28,000. The clinic, which runs off the volunteer services of 16 physicians and a yearly grant, provides health care to about 4,500 patients-most of whom have little or no health insurance. (*Northwest Daily Herald*, Feb. 12, 2003)

Dr. Stephanie Skelly, an Ob-gyn in Belleville, is considering a move to her home state, Louisiana, where liability costs are about half compared to Illinois. The combined premium for Skelly and her partner, Dr. John Hucker, doubled to $200,000 from $100,000. They took out a loan to pay a one-time $250,000 for tail coverage. "We have to work for free this year," Hucker said. (*St. Louis Post-Dispatch*, Oct. 6, 2002.)

Updated March 4, 2004
American Medical Association

Printable version:
Illinois Medical Liability Crisis State Backgrounder
(PDF, 33KB, requires Adobe® Reader®)

Current State Law - Illinois

Damage Caps - $500,000 cap on non-economic damages for awards against physicians. $1 million cap on non-economic damages for awards against hospital.

Joint Liability Reform - No. Each defendant is jointly and severally liable.

Collateral Source Reform - Yes, applicable only to medical malpractice claims. A judgment will be offset by 50% of lost wages and 100% of medical benefits received, minus any amount paid by the claimant to secure such benefits. The total judgment may not be reduced more than 50%. Does not apply to benefits that are subject to subrogation.

Attorney Fees Limited - Yes. Fees are limited to 33 1/3% of the first $150,000; 25% of the next $850,000; and 20% of amounts over $1 million. Attorney may petition court for additional fees.

Periodic Payments Permitted - Yes. Either party may elect or the court may order partial payment of future medical expenses through an annuity. The court must order the defendant to pay to the plaintiff 20 percent of the present cash value of future medical expenses and cost of life care. The remaining 80 percent shall be paid for through an annuity.

Contacts

For further information contact:

Kimberly Horvath, JD, Senior Legislative Attorney
Phone: (312) 464-5033
E-mail: kimberly.horvath@ama-assn.org

Terri Marchiori, Director State and County Relations
Phone: (312) 464-5271
E-mail: teresa.marchiori@ama-assn.org

Illinois State Medical Society
Kelley Elwood, Assistant Director, Communications
Phone: (312) 580-6497
E-mail: Elwood@isms.org
Web site: www.isms.org

Last updated: Sep 13, 2005
Content provided by: Media Relations

AMA
AMERICAN
MEDICAL
ASSOCIATION

Press the print button on your browser.
Click here to return to the previous page.

Kentucky

Kentucky Backgrounder

Current State Law

Contacts

America's Medical Liability Crisis Backgrounder

Kentucky

In the past three years, Kentucky has lost 36 percent of its practicing neurosurgeons, 29 percent of its general surgeons and 25 percent of its obstetricians, according to the Kentucky Medical Association. (*The Associated Press*, January 13, 2004)

Because the state's unpredictable legal system rewards excessive litigation and fosters frivolous lawsuits, physicians' medical liability insurance rate increases in 2002-2003 ranged from an average of 64 percent for obstetricians and internists to greater than 200 percent for some emergency room physicians. (*The Associated Press*, January 13, 2004)

The Kentucky Hospital Association believes medical liability reforms would help improve the state's ability to recruit and retain physicians. (*Grayson County News-Gazette*, Jan. 24, 2004)

Nearly one-quarter of physicians surveyed by the Kentucky Medical Association indicated that medical liability insurance rate increases make them consider whether to leave the state. 170 physicians said it has affected their ability to perform services such as obstetric care.

The Knox County Hospital in Barbourville was forced to close its OB department in 2003 due to escalating medical liability insurance rates. The nearest hospital is 40 miles away. Ashland's Bellefonte Hospital in Greenup County also was forced to close its OB department that same year. The four obstetricians at the hospital had to give up their practice due to high insurance rates. (Kentucky Medical Association)

Kentucky's deteriorating practice environment continues to result in physicians leaving the state or retiring early. Between January 2000 and December 2002, the state has lost more than 1,200 physicians, nearly one-third to neighboring states and another one-third to early retirement. (*Louisville Courier-Journal*, Nov. 11, 2003)

Kentucky does not have the types of medical liability reforms, including a reasonable cap on non-economic damages, that have proven successful at stabilizing liability premium increases and protecting patients' access to care. The Kentucky state constitution currently prohibits a cap on non-economic damages. (AMA analysis)

Patients support liability reforms, but without support from the state legislature, patients will not be able to decide for themselves whether there should be reasonable limits on non-economic damages, periodic payment of future awards, pre-trial screening panels and other reforms. A recent survey found that 78 percent of Kentucky voters believe there should be limits on non-economic damage awards. (Kentucky Medical Association)

For the second straight year, Kentucky's General Assembly failed to enact a constitutional amendment that would allow the legislature to enact reasonable limits on non-economic damages. (AMA analysis)

Two major Kentucky insurers have filed for rate increases from 29 to 57 percent. Health facilities may see increases greater than 150 percent. (*Insurance Journal*, May 20, 2003)

In Pikeville, three of four obstetricians who deliver babies at Pikeville Methodist Hospital have received medical liability insurance coverage cancellation notices, and the fourth said he might yet receive one. "There's no way that I could do 800 deliveries by myself," said Dr. James Pigg, the lone obstetrician in Pikeville. (*Louisville Courier-Journal*, Nov. 11, 2003)

Two major Kentucky insurers have filed for rate increases from 29 to 57 percent. Health facilities may see increases greater than 150 percent. (*Insurance Journal*, May 20, 2003)

In Pikeville, three of four obstetricians who deliver babies at Pikeville Methodist Hospital have received medical liability insurance coverage cancellation notices, and the fourth said he might yet receive one. "There's no way that I could do 800 deliveries by myself," said Dr. James Pigg, the lone obstetrician in Pikeville. (*Louisville Courier-Journal*, Nov. 11, 2003)

Professor and physician Dr. Vesna Kriss believes it is time to end "jackpot justice" in Kentucky, especially since it has taken such a toll on patients' access to care. In a recent op-ed, she reminded Kentucky lawmakers that they should not buy-in to popular trial lawyer myths: "Why is Kentucky in crisis, but Indiana isn't?" she asked. "Did the stock market collapse not happen in Indiana, Wisconsin or California? Or is it because all of these states have medical tort reform?" (Lexington Herald Leader, Feb. 9, 2004)

Pregnant women in eastern Kentucky will have a much more difficult time finding a doctor to deliver their baby since two hospitals that provided obstetrics — Knox County in Barbourville and Our Lady of Bellefonte in Ashland — have recently closed their doors, according to Dr. Joe Davis, an obstetrics and gynecological specialist in Bowling Green, "In the past few years, it's hit Kentucky significantly, especially in my specialty," said Dr. Davis. (*Bowling Green Daily News*, February 26, 2004; Kentucky Medical Association)

Updated June 1, 2004
American Medical Association

Printable version:
Kentucky Medical Liability Crisis State Backgrounder
(PDF, 28KB, requires Adobe® Reader®)

Current State Law

Damage Caps - None

Joint Liability Reform - Jury may either apportion damages among defendants or hold defendants jointly and severally liable.

Collateral Source Reform - No

Attorney Fees Limited - No

Periodic Payments Permitted - Not mandated

Contacts

For further information contact:

Kimberly Horvath, JD, Senior Legislative Attorney

Phone: (312) 464-5033
E-mail: kimberly.horvath@ama-assn.org

Terri Marchiori, Director State and County Relations
Phone: (312) 464-5271
E-mail: teresa.marchiori@ama-assn.org

Kentucky Medical Association
Marty White, Director, Public & Governmental Relations
Phone: (502) 426-6200
E-mail: white@kyma.org
Web site: www.kyma.org

Last updated: Sep 13, 2005
Content provided by: Media Relations

AMA AMERICAN MEDICAL ASSOCIATION

Press the print button on your browser.
Click here to return to the previous page.

Massachusetts

America's Medical Liability Crisis Backgrounder

Massachusetts

Due to increasing severity of lawsuits, physicians have faced four consecutive double-digit insurance premium increases. Since 1998, rates have increased 99 percent compounded. Obstetricians and neurosurgeons typically pay the highest rates, more than $97,000 and $90,000, respectively. (A.M. Best, April 2004; Medical Liability Monitor, Oct. 2003; ProMutual, 2004)

The number of jury awards topping $2 million has quadrupled over five years, according to ProMutual's chairman, Barry M. Manuel, MD, a surgery professor at Boston University. Dr. Manual also said that ProMutual's investments are not behind rising insurance premiums: "In the past 10 years, there's not one year that we've shown a negative return on our investments. It's the severity of awards that's driving this situation." (*The Associated Press*, May 17, 2004)

Median settlements in medical negligence cases increased from $600,000 to $925,000 between 2000 and 2002, according to Massachusetts Lawyers Weekly. Settlements of $1 million or more also increased from 12 in 2001 to 26 in 2002. (*Cape Cod Times*, Oct. 6, 2003)

Large jury awards and settlements continue to occur in Massachusetts, putting further pressure on the liability system. In 2003, there were jury awards of $3.18 million and $1.8 million. Settlements were reported for $3.75 million and $3.25 million, eight settlements between $2 million and $3 million, and eight settlements between $1 million and $2 million. (*Mass. Lawyers Weekly*, Jan. 19, 2004)

In its public rate filing in 2004, ProMutual acknowledged that a recent Massachusetts Supreme Judicial Court decision expanding the liability of physicians in malpractice cases (Stella Dias et. Al. v. Brigham Medical Associates, Inc.) will have a negative effect on its loss experience in Massachusetts, putting further pressure on rates.

High-risk specialties, including neurosurgeons, Ob-gyns and orthopedic surgeons are sued more often than any other specialty in Massachusetts-the primary factor why they pay the highest insurance rates. (Massachusetts Board of Registration in Medicine)

The limited medical liability reforms in place in Massachusetts have not been effective in stabilizing the market. Most importantly, Massachusetts' $500,000 cap on non-economic damages is subject to broad exceptions making it woefully inadequate. The cap does not apply where the jury finds there is a substantial disfigurement or a substantial or permanent loss or impairment of a bodily function, or any other special circumstances where limit would deprive the plaintiff of just compensation for his or her injuries. (AMA analysis)

The average time to fill a neurosurgery slot in the state has risen from less than two years to almost 2 ½ years. (MMS 2004 Physician Workforce Study, April 2004)

A majority of Massachusetts patients believe patients bring too many lawsuits against physicians, and they strongly support reforms advocated by the state medical society. 85 percent of voters said they supported legislation that would assess liability based on a doctor's or nurse's level of responsibility. And nearly 70 percent favor limiting non-economic damages ("pain and suffering") when economic damages (such as child care costs, lost wages, benefits, etc.) are fully covered. (*The Boston Herald*, June 7, 2004)

A 2004 Massachusetts Medical Society Workforce study found that high-risk specialists are limiting their scope of practice and altering how they practice, including practicing defensive medicine because of the fear of being sued. Among the high-risk specialists affected are:
- 68 percent of emergency medicine specialists
- 64 percent of neurosurgeons
- 64 percent of Ob-gyns
(MMS 2004 Physician Workforce Study, April 2004)

More than 1,600 Massachusetts physicians will soon be forced to find another insurer in the wake of Medical Liability Mutual Insurance Company (MLMIC) leaving the Commonwealth. MLMIC's departure leaves only two commercial insurers remaining.

Diagnostic radiologists are facing 32 percent increases in their insurance - on top of 20 and 12.5 percent increases in 2003 and 2002, respectively. Lowell radiologist Dr. Kenneth R. Peelle pointed to an increasing number of mammography-related lawsuits. "Patients who develop breast cancer are encouraged to bring in their mammograms to lawyers, and have them reviewed to see if they can find something the doctor missed. Even though mammograms don't detect cancer 100 percent of the time, women feel betrayed," he said. (*The Boston Globe*, May 17, 2004)

Liability concerns are causing Tobey, St. Luke's and Charlton Memorial hospitals to no longer allow women who have had a Caesarean section to attempt vaginal birth. The policy was to go into effect June 1, 2004. "It's unfortunate that we're not having the opportunity to practice evidence-based medicine," said Dr. Kerry Gowell, speaking on behalf of the eight-physician Ob-gyn practice, Healthcare for Women, Inc., the only obstetrics office in New Bedford. (*New Bedford Standard-Times*, May 15, 2004)

Jane Confort, 52, is one of more than one dozen patients who had to be airlifted by helicopter to Boston from Saints Memorial Medical Center in Lowell since it has lost 24-hour neurosurgery coverage after two of six neurosurgeons in the region retired recently, and the facility's medical group has been unable to find replacements. Mrs. Confort was okay, and Dr. Gary DeLong, director of emergency room services at Saints Memorial in Lowell, said although he believes the shortage hasn't hurt the quality patient care, but "it has affected orderly, convenient patient care." But, he said, "when someone has an acute hemorrhage inside the brain, those patients need surgery quickly." (*The Boston Globe*, April 28, 2004)

Marisa Stumpf, MD, started out in an Ob-gyn residency but is now in her last year of an emergency medicine residency at Beth Israel Deaconess Medical Center in Boston. "I switched partially out of lifestyle concerns," she said. "But another major component of my decision was seeing the malpractice issue facing Ob-gyns here [in Massachusetts]. Dr. Stumpf said she enjoyed being in the delivery room. "I loved what I was doing," she said. "But the other factors were playing too much of a role." And while physicians practicing emergency medicine must also be aware of malpractice issues, she said, "There are a lot more malpractice factors at play with OB/GYN. It seems that if anything goes wrong with the child, people just want to point the finger at the doctor." (Vital Signs, February 23, 2004)

Some of Massachusetts' most experienced orthopedic surgeons say that it is growing more difficult to recruit new physicians. "I have been trying to recruit a partner for several years," said hand surgeon William Ericson, MD. "And no one wants to come to Massachusetts. My most hopeful prospect just informed me that he is leaving the state." R. Scott Oliver, MD, also has had difficulty recruiting and said that "in the last year, I've interviewed five young doctors for positions in my group practice, and all have turned to other opportunities." (Massachusetts Medical Society, Sept. 18, 2003)

Westfield Ob-gyn James Wang, MD, is only 43 years old, but was forced to stop delivering babies in March 2003 when his liability premiums doubled. "It is an enormous struggle to me to have to decide if I can continue practicing a profession I love and have dedicated so much time and effort to learn." (Massachusetts Medical Society, Sept. 18, 2003)

Orthopedic surgeon David Fabian, MD, would save $40,000 on his liability insurance bill if he moved to Nebraska, and Natick obstetrician Michael Robertson, MD, was forced to move to a smaller home and office just to pay his $91,000 insurance bill. "Society is suing more here," said Dr. Fabian, who also is chairman of surgery at MetroWest Medical Center. "We're getting slammed in our specialty," said Robertson. (*Milford Daily News*, Oct. 14, 2003)

Cape Cod lost its only board-certified neurosurgeon when Robert Leaver, MD, retired early rather than face insurance premiums that reached $115,000. Dr. Leaver, who said he would have to perform about 100 operations just to pay his insurance bill, had no intention of retiring. (*Cape Cod Times*, October 6, 2003)

There are only 23 neurosurgeons based outside of the Metro Boston area to serve 39 hospitals, and the state's worsening legal climate is making it more difficult to recruit additional neurosurgeons. (Massachusetts Medical Society)

Updated June 8, 2004
American Medical Association

Printable version:
Massachusetts Medical Liability Crisis State Backgrounder
(PDF, 34KB, requires Adobe® Reader®)

Current State Law - Massachusetts

Damage Caps - $500,000 cap on noneconomic damages, with exceptions for proof of substantial disfigurement or permanent loss or impairment of a bodily function, or other special circumstances which warrant a finding that imposition of such limitation would deprive the plaintiff of just compensation for the injuries sustained. (1986)

Joint Liability Reform - No. Each defendant is jointly and severally liable.

Collateral Source Reform - Yes, benefits from collateral sources must be disclosed and used to reduce recoverable economic damages, minus any amount paid by the claimant to secure the benefit.

Attorney Fees Limited - Yes. Fees are limited to 40% of the first $150,000; 33 1/3% of the next $150,000 and 30% of the next $200,000; and 25% of amounts exceeding $500,000. An attorney may not take an amount that would leave the claimant with less than the amount of unpaid past and future medical expenses, with exceptions.

Periodic Payments Permitted - No

Contacts

For further information contact:

Kimberly Horvath, JD, Senior Legislative Attorney
Phone: (312) 464-5033
E-

AMA AMERICAN MEDICAL ASSOCIATION

Press the print button on your browser.
Click here to return to the previous page.

Mississippi

America's Medical Liability Crisis Backgrounder

Mississippi

Juries have handed out 19 awards of $9 million or more since 1995, including 5 of more than $100 million. And despite having only 9,740 residents, more than 21,000 people were plaintiffs in Jefferson County from 1995-2000. (*The New York Times*, July 30, 2002) In the first five months of 2002, Mississippi juries awarded nearly $28 million in four cases involving physicians and hospitals. (*The Sun Herald*, May 19, 2002)

Days before Mississippi's new reforms went into effect (Jan. 1, 2003), several counties saw a rush of lawsuit filings. Hinds County saw a 200-300 case increase; Holmes County had at least 30 additional lawsuits filed; Rankin County's increase went from less than 300 to nearly 400. (*The Associated Press*, Dec. 30, 2002)

Pediatric specialist Kurt Kooyer, MD, left the small town of Rolling Fork after getting fed up with a legal system that allowed lawyers to file suit against him without the patients knowledge they were suing their physician. Dr. Kooyer, the only pediatrician among three physicians in town, arrived in 1994 and was responsible the infant mortality decreasing from an average of 10 deaths per 1,000 live births to 3.4. Dr. Kooyer now lives in North Dakota. (*Clarion Ledger*, Aug. 23, 2003)

Only two neurosurgeons remain in practice in the Gulf Coast-area of Mississippi, and general surgeons are in short supply because of the state's medical liability crisis. "Everybody is reduced to the same low level of trauma care that we had 20 years ago," said Steve Delahousey, vice president of operations at American Medical Response ambulance service. (*Biloxi Sun Herald*, Jan. 29, 2003)

Mississippi's only Level I trauma center, the University of Mississippi Medical Center in Jackson, is concerned it may not be able to handle its increased patient load now that so many towns have lost their neurosurgeons. Towns including Columbus, Greenwood and Meridian have lost their sole neurosurgeon, and the Gulf Coast region has gone from five to one. (*Modern Healthcare*, Sept. 9, 2002)

Fifty-one of Mississippi's 82 counties face doctor shortages, according to a report by the Mississippi Health Policy Research Center. Starkville physician Steve Parvin, president-elect of the Mississippi State Medical Association, said a major reason for Mississippi's depleting work force of physicians is the high cost and scarcity of medical malpractice insurance. (*Health & Medicine Week*, December 29, 2003)

Mississippi ranks 50 out of 51 states and the District of Columbia for the number of physicians (152) per 100,000 patients. The national average is 230. (AMA data)

Mississippi is the only state in the United States the U.S. Chamber of Commerce warns

businesses about doing business in. "Mississippians are losing more than 7,500 jobs a year, and the average Mississippi family pays an additional $264 a year as a direct result of the state's love affair with lawsuits," said James M. Wootton, president of the Chamber Institute for Legal Reform. (U.S. Chamber of Commerce, May 8, 2002)

Rural obstetric care is in serious jeopardy. Cleveland has lost three of six Ob-gyns, Greenwood has lost two of four, and Yazoo City-with 14,550 residents, has no one practicing obstetrics. (*The Associated Press*, Nov. 19, 2003)

Dr. Paul Mace, a general surgeon in Gulfport, said his premium could reach $170,000 if he continues to handle trauma and other high-risk procedures. (*Biloxi Sun Herald*, November 7, 2003)

Dr. Ron Graham, an orthopedic surgeon in Gulfport, received a retroactive premium increase in May of $36,000, then another increase in September. He said he's already been informed that when renewal time comes next year, it will double. That means in 10 years he's seen a 400 percent increase, he said. He may be forced to close his practice and put his four employees out of work. (*Biloxi Sun Herald*, November 7, 2003)

Although there are several companies licensed to write medical liability insurance policies, state insurance commissioner George Dale said few new policies are actually being written. "A lot of the companies still perceive that Mississippi is not a good place to do business," he said. (*The Associated Press*, April 28, 2004)

Updated June 1, 2004
American Medical Association

Printable version:
Mississippi Medical Liability Crisis State Backgrounder
(PDF, 31KB, requires Adobe® Reader®)

Current State Law - Mississippi

Damage Caps - $500,000 cap on noneconomic damages per plaintiff. (2004)

Joint Liability Reform - Yes. Defendants are responsible only for their proportionate share of negligence except where they consciously or deliberately pursue a common plan or design to commit a tortuous act or actively take part in it.

Collateral Source Reform - No

Attorney Fees Limited - No

Periodic Payments Permitted - Yes, but they are not mandated.

Contacts

For further information contact:

Kimberly Horvath, JD, Senior Legislative Attorney
Phone: (312) 464-5033
E-mail: kimberly.horvath@ama-assn.org

Terri Marchiori, Director State and County Relations
Phone: (312) 464-5271
E-mail: teresa.marchiori@ama-assn.org

Mississippi State Medical Association
Karen Evers, Director of Communications
Phone: (601) 853-6733
E-mail: kevers@msmaonline.com
Web site: www.msmaonline.com

Last updated: Sep 13, 2005
Content provided by: Media Relations

AMA AMERICAN MEDICAL ASSOCIATION

Press the print button on your browser.
Click here to return to the previous page.

Missouri

Missouri Backgrounder

Current State Law

Contacts

America's Medical Liability Crisis Backgrounder

Missouri

Missouri's current "limit" on non-economic damages is ineffective for two main reasons:
- It has increased every year since 1985, and as of Feb. 1, 2004 the cap was $565,000.
- A 2002 court decision allows plaintiffs to seek multiple caps from the same defendant. (AMA analysis)

Missouri's General Assembly passed meaningful medical liability reform legislation in 2004, which would have considerably strengthened Missouri's existing cap on non-economic damages. For the second straight year, however, Governor Bob Holden vetoed the legislature's meaningful reforms. Both years the legislature attempted to override the veto, but failed to get the two-thirds vote necessary. (AMA analysis)

A recent survey of Missouri neurosurgeons found that 21 of 79 were considering leaving the state and 31 were weighing early retirement. (*St. Louis Post-Dispatch*, Sept. 22, 2003)

According to the Missouri State Medical Association, more than 30 insurance companies were licensed to write professional liability insurance for Missouri physicians two years ago. Currently, only three are willing or able to write new business. Three companies (PHICO, Chicago and St. Paul) which accounted for almost one third of Missouri's market in 2001, are gone.

After obstetrician Jamie Ulbrich's liability insurance carrier stopped doing business in Missouri, the best coverage he and three colleagues at their Marshall clinic could find would have cost them double what they paid in 2003. The four doctors decided they couldn't each afford the $50,000 liability insurance premium, so they decided to stop providing obstetric service and instead work solely as family physicians in 2004. (*The Associated Press*, January 3, 2004)

Dr. Scot Pringle, a Cape Girardeau obstetrician, said he has delivered approximately 8,000 babies during his 23 years, and his premiums will likely exceed $85,000 if he continues to practice. "A lot of us have been practicing long enough we are near retirement," Dr. Pringle said. "Frankly, I don't want to put up with this mess anymore." (*Southeast Missourian*, April 26, 2004)

Dr. Donald Maples, a Kirksville family physician for 14 years, was forced to close his practice due to the high costs of medical liability insurance. "I am unbelievably saddened by this, this is not what I expected in my career, I expected to be here until I was in my mid- 60s, but the reality is that I can no longer really truly afford to do this," said Maples, who will work as a full-time employee for Northeast Regional Medical Center. (*KTVO*, April 30, 2004)

Access to care for St. Louis/Metro East-area patients is under extreme stress due to the fact that many patients receive care in neighboring St. Clair and Madison Counties (Illinois), which also is experiencing a severe medical liability crisis. The Illinois Civil Justice League studied 422 medical malpractice cases filed in Madison and St. Clair counties from 2000 to 2003 and found that 367 doctors—nearly 40 percent of the actively licensed 965 doctors in St. Clair County—have been named in a suit. The inability of either the Illinois or Missouri legislature to enact proven reforms makes it increasingly unlikely that needed specialists, including neurosurgeons and Ob-gyns will choose to stay in practice—or locate a new practice—on either side of the border. (*St. Louis-Post Dispatch*, June 30, 2004, AMA analysis)

The sharp increase in premiums in the Metro-East region has triggered the exodus of dozens of doctors, the termination of emergency room procedures and a sharp upsurge in the number of trauma patients transported by ambulance to Missouri. (*Belleville News-Democrate*, June 13, 2004)

St. Anthony's Health Center in Alton will lay off 50 to 75 employees in coming months. William E. Kessler, president and CEO of St. Anthony's, blamed the layoffs on declining revenue associated with increased medical liability insurance premiums and the resulting exodus of doctors from the community. (*St. Louis Post-Dispatch*, June 26, 2004)

Dr. Al Elbendary, a gynecological oncologist, left a group practice and eliminated a rural outreach clinic because of rising professional liability premiums. "Women with gynecologic cancers in Ste. Genevieve, Carbondale and Chester now have to drive over a hundred miles to see a gynecologic oncologist and receive the care they deserve," said Elbendary. (*St. Louis Post-Dispatch*, Oct. 31, 2002)

Missouri physicians' faced premium increases for 2003 as high as 50 percent. This was on top of double-digit increases in 2001 and 2002. (Medical Liability Monitor 2003 rate survey)

Julie Wood, MD, grew up in Macon, Mo., and loved practicing medicine there, as well as delivering babies. Yet, she was forced to close her practice and become part of a teaching hospital in Kansas City because of skyrocketing insurance rates. The town's two other family practitioners also decided to stop delivering babies and the nearest obstetrical care now is at least one hour away. (*Springfield News Leader*, May 10, 2003)

Updated July 7, 2004
American Medical Association

To download a PDF of the Missouri Medical Liability Crisis State Backgrounder, please click here: Missouri Medical Liability Crisis State Backgrounder
(PDF, 43KB, requires Adobe® Reader®)

Current State Law - Missouri

Damage Caps - $350,000 cap on noneconomic damages.

Joint Liability Reform - A defendant can only be held jointly liable for damages if the defendant is greater than 51 percent at fault. A defendant who is less than 51 percent at fault shall only be responsible for damages in proportion to his or her degree of fault.

Collateral Source Reform - No

Attorney Fees Limited - No

Periodic Payments Permitted - Yes. In cases where payment for future damages exceeds $100,000, court may order periodic payment upon request of either party. Court has upheld the constitutionality of this law.

Contacts

American Medical Association

For further information contact:

Kimberly Horvath, JD, Senior Legislative Attorney
Phone: (312) 464-5033
E-mail: kimberly.horvath@ama-assn.org

Darren Streff, Field Representative
Phone: (312) 464-4248
E-mail: darren.streff@ama-assn.org

Missouri State Medical Association
Liz Fleenor, Director of Communications
Phone: (573) 636-5151
E-mail: lfleenor@msma.org
Web site: www.msma.org

Last updated: Sep 13, 2005
Content provided by: Media Relations
