



THE MEDICAL LIABILITY CRISIS AND THE LITIGATION EXPLOSION

“ ... there is a real possibility that the filing of frivolous malpractice lawsuits that should not be filed could be contributing to this.”

The filing of meritless cases “results in clogging up the courts, results in increased costs and it means that people who should never have been brought into court are brought into court.”

– Senator John Edwards, ABC’s This Week, 1/5/03

Too Many Meritless Lawsuits In Tort-Friendly States

Across the nation, doctors are facing staggering increases in medical liability premiums – if they can find coverage at all. The reason? The rising number of meritless lawsuits filed each year and the concentration of those cases in tort-friendly states.

- From 1996-2000, the number of medical liability claim payments rose 5% nationwide. Yet the real problem is not the absolute number of claims ... it’s that claims are increasingly concentrated in tort-friendly states. During that same 5-year period, some states saw astronomical increases – from 40-97% -- in the number of medical liability claim payments. (*National Practitioner Data Bank, 2000 Annual Report*)
- Nearly 6 out of 10 Americans believe the number of lawsuits against physicians is too high, compared to just 13% who believe there are too few. (*Gallup poll, National Journal.com, February 5, 2003*)
- The average OB can expect to be sued roughly three times in her career. While more than half of all claims against ob/gyns are dropped or settled without payment, fighting lawsuits costs doctors and insurers time and money. (*Self Magazine, April 2002*)

Most Suits Are Meritless ... But Still Expensive

The facts show that most medical liability cases – at least 6 out of 10 – are completely meritless. Yet even cases that are dismissed outright or dropped by the plaintiff require years and tens of thousands of dollars to defend.

- Sixty-seven percent of all cases filed are found to be without merit and result in no payment to the plaintiff. (*Physician Insurers Association of America*)

- Only about 7% of all medical liability claims ever come to trial. More than 80% of those cases that go to trial are won by the defendant. *(Physicians Insurers Association of America, December 9, 2002)*
- Even though the vast majority of medical liability cases never come to trial, it costs an average of \$24,669 to defend each claim. *(U.S. Department of Health and Human Services, July 24, 2002)*
- Just the threat of a lawsuit – a lawyer requesting medical files – can drive up a doctor’s insurance premiums, even if a case is never filed. *(Tampa Tribune, December 19, 2001)*

Jury Verdicts Skyrocketing

The prospect of lottery-sized jury awards encourages personal injury lawyers to file meritless claims, driving up medical liability premiums for doctors and health care costs for patients.

- In 1985, less than one out of every 100 medical liability claims resulted in payments at or exceeding \$1 million. Today, nearly one in 8 payments is at or over \$1 million. *(Physicians Insurers Association of America, December 9, 2002)*
- Between 1996 and 1999, the average jury award in medical liability cases jumped 76%. *(U.S. Department of Health and Human Services, July 24, 2002)*
- Between 1817 and 1995, Mississippi juries handed out \$1 million awards in less than 50 cases. Since 1995, they’ve done it more than 100 times. *(American Medical News, January 7, 2002)*
- In 1997, only two medical liability verdicts topped \$20 million. In 2001, at least 12 went above \$20 million and three exceeded \$100 million, including a \$269 million judgment. *(Miami Herald, February 3, 2002)*

The Explosion Of Meritless Litigation And Skyrocketing Jury Awards Are Causing Rising Medical Liability Premiums, Driving Up Health Care Costs and Limiting Patients’ Access To Care.