

## SEPARATING MYTH FROM FACT IN THE MEDICAL LIABILITY CRISIS

In its latest offering, the Center for Justice and Democracy (CJD) and its affiliate, Americans for Insurance Reform (AIR), have officially proclaimed the medical liability crisis “over.” But as patients and their doctors know, medical liability premiums have been rising at double digit rates, driven by a surge in lawsuits and soaring jury awards for non-economic damages. While pressure has been building on Congress to pass medical liability reform, CJD analyses have been used to bolster the arguments of those who wish to block reform and preserve the status quo. The problem is, every CJD “study” has been quickly and widely debunked.

*Myth: As the latest CJD study proves, the medical liability crisis is “over” because insurance premiums are no longer rising.*

**Fact: The primary data the CJD used to reach its conclusions was taken from a survey conducted by the Council of Insurance Agents and Brokers. What did the Council think of the CJD’s study? “Total incompetence” based on “sloppy math.”** *(Physician Insurers Association of America Press Release, February 28, 2006)*

*Myth: In a July 2005 study by Mr. Jay Angoff, the CJD found that medical liability claims payouts were flat or falling, while premiums were increasing.*

**Fact: The Angoff study was widely denounced by a wide variety of sources. Two academic scholars concluded the study employed a “critically flawed approach” along with serious “errors and shortcomings in ... methodology.” Because of these critical mistakes, the scholars state, Angoff “cannot make meaningful conclusions” about the medical liability market.** *(Robert E. Hoyt & Lawrence S. Powell, “Profitability in Medical Professional Liability Insurance,” HCLA, October 13, 2005)* **Experts ranging from insurance industry regulators to the Joint Economic Committee also criticized the Angoff study.** *(Physician Insurers Association of America Press Release, February 28, 2006)*

*Myth: An earlier CJD study found that insurance companies were raising medical liability premiums to make up for stock market losses.*

**Fact: The problem with this theory is that approximately 80 percent of the assets of medical liability insurers are invested in bonds, including virtually risk-free Treasuries. Only about 9% are invested in stocks.** *(Physicians Insurers Association of America, U.S. Senate Testimony of Lawrence E. Smarr, President, February 11, 2003).* **So what exactly is causing premiums to increase? According to the nonpartisan General Accounting Office (GAO), “losses on medical malpractice claims appear to be the primary driver of increased premium rates in the long term. Such losses are by far**

**the largest component of insurer costs ...”** (*United States General Accounting Office. “Medical Malpractice Insurance: Multiple Factors Have Contributed to Increased Premium Rates,” June 2003*)