

The High Cost of a Legal System Run Amok

Too Many Lawsuits

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 lawsuits that are filed each year, most of them completely without merit.

- About one-third of orthopaedists, trauma surgeons, emergency room doctors and plastic surgeons can expect to be sued in any given year.¹
- Practicing neurosurgeons are sued even more often – on average every two years.²
- According to a survey by the American College of Obstetricians and Gynecologists, 89 percent of all OB-GYNs have had at least one liability claim filed against them, with an average of 2.6 claims per doctor. Liability concerns have forced 70 percent of all OB-GYNs to make changes in their practice, and seven to eight percent stopped practicing altogether.³
- After premium increases of over 100 percent in states without medical liability reform, rates began to plateau at very high levels in 2008.⁴ For the years 2000 to 2008:
 - Premiums rose 221 percent for OB-GYNS in Philadelphia, PA
 - Premiums rose 149 percent for General Surgeons in New Jersey
 - Premiums rose 348 percent for internists in Connecticut

Most Lawsuits Have No Merit... But Are Still Expensive

The facts show that the majority of medical liability cases are completely without merit. Yet even cases that are dismissed outright or dropped by the plaintiff require years to defend against and can still cost tens of thousands of dollars.

- Data for 2006 show that 71% of cases are dropped or dismissed, and only 1% of total cases result in a verdict for the plaintiff.⁵
- Cases that result in no payment to the plaintiff still cost an average of \$25,000 to defend against.⁶
- Attempts to expand the ability to sue doctors are also increasing, with a recent ruling in Massachusetts reinstating a lawsuit against a doctor contending that he was responsible for the fact that his patient's car struck and killed a pedestrian because of the medicines the doctors had prescribed for high blood pressure.

¹ "Defending the Practice of Medicine," by Richard E. Anderson, MD, Archives of Internal Medicine, June 2004.

² "Effective Legal reform and the Malpractice Insurance Crisis," by Richard E. Anderson, MD, Yale Journal of Health Policy, Law and Ethics, December 2004.

³ ACOG Survey, The American College of Obstetricians and Gynecologists, November 3, 2006.

⁴ Medical Liability Monitor, October 2008

⁵ Physician Insurers Association of America Data Sharing Project

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Jury Verdicts Skyrocketing

The prospect of escalating 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 resulting in payments at or exceeding \$1 million. Today, over 50% of awards are in excess of \$1 million.⁷
- In 2006, the most recent year data is available, the average jury award was \$637,000 compared to about \$347,000 in 1997.⁸

Meritless lawsuits and out-of-control jury awards are causing medical liability premiums to rise, driving doctors out of practice, driving up the cost of health care and limiting patients' access to care. It is a high price to pay for a legal system run amok.

⁷ Physician Insurers Association of America, December 9, 2002

⁸ Physician Insurers Association of America, PIAA Claim Trend Analysis: 2006 edition (2007).