

## Overview: Why America Needs Medical Liability Reform

*More and more Americans cannot get the health care services they need when they need them.*

- **Patient Care at Risk...** Fifty-five percent of hospitals were reporting difficulties recruiting doctors because of the medical liability crisis.<sup>1</sup>
- **Medical Residents Shun High-Risk Specialties...** Half of all medical students responding to an AMA survey said that the liability situation was a factor in their specialty choice; and 39% said that the liability crisis was a factor in which state they would choose to complete their training.<sup>2</sup>
- **Doctors Abandon High-Risk Procedures...** Soaring medical liability premiums have led specialists such as neurosurgeons and orthopaedic surgeons to cut back or eliminate certain emergency procedures, seriously reducing patient access to emergency surgery services.<sup>3</sup>
- **Women Face Greater Access to Care Obstacles...** Seventy percent of OB/GYNs have made changes to their practice because of the lack of available or affordable medical liability insurance, and 65 percent have made changes because of the risk or fear of liability claims or litigation.<sup>4</sup> Liability fears have led to a severe obstetrician shortage – about half of all counties in America do not have a single obstetrician.<sup>5</sup>
- **Lawsuits Hinder Access to Care...** Seventy-four percent of those surveyed in an HCLA poll believe their access to affordable, high-quality health care is threatened because medical liability costs are forcing doctors out of medicine.<sup>6</sup>

*Lawsuit abuse is at the root of the crisis.*

- **Out-of-Control Litigation...** About one-third of orthopaedists, trauma surgeons, emergency room doctors and plastic surgeons can expect to be sued in any given year,<sup>7</sup> and practicing neurosurgeons are sued even more often – on average every two years.<sup>8</sup>
- **Jury Awards Escalating...** In 2006, the most recent year data is available, the average jury award was \$637,000 compared to about \$347,000 in 1997.<sup>9</sup>

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<sup>1</sup> American Hospital Association, 'Professional Liability Insurance: A Growing Crisis,' March 2003.

<sup>2</sup> American Medical Association Survey, "Medical Students' Opinion of the Current Medical Liability Environment," 2003.

<sup>3</sup> "Federal Medical Liability Reform," Alliance of Specialty Medicine, July 2005.

<sup>4</sup> American College of Obstetricians and Gynecologists 2006 Survey

<sup>5</sup> Center for Health Workforce Studies, cited in "No Place To Be Born," *New York Sun*, August 25, 2008.

<sup>6</sup> HCLA Poll, 2006. [www.hcla.org](http://www.hcla.org)

<sup>7</sup> "Defending the Practice of Medicine," by Richard E. Anderson, MD, Archives of Internal Medicine, June 2004.

<sup>8</sup> "Effective Legal reform and the Malpractice Insurance Crisis," by Richard E. Anderson, MD, Yale Journal of Health Policy, Law and Ethics, December 2004.

<sup>9</sup> Physician Insurers Association of America, PIAA Claim Trend Analysis: 2006 edition (2007).

- **Mega-Verdicts Rising...** 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.<sup>10</sup>
- **Medical Liability Premiums are Rising...** After premium increases of over 100 percent in states without medical liability reform, rates began to plateau at very high levels in 2008.<sup>11</sup> 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

*It's time for Congress to enact proven, common sense reforms that safeguard patients' access to care while preserving their access to the courts.*

- **A National Problem Requiring a National Solution...** Patients today often travel across state borders to find the medical care they need, and medical liability insurers no longer limit their services to a single state. Additionally, many states face political and legal barriers to enacting their own effective medical liability reforms.
- **Reform Keeps Premiums in Check and Health Care Accessible...** Since Texas enacted liability reforms in 2003, seventy-six counties have experienced a net gain in emergency physicians, including 39 medically underserved counties and 30 counties that are partially medically underserved.<sup>12</sup> In 2008, OB/GYNs in Texas paid some of the lowest liability premiums in the nation, with rates decreasing by up to 7 percent.<sup>13</sup>
- **Reform Saves Billions of Dollars in Health Care Costs...** Comprehensive medical liability reform, including reasonable limits on non-economic damages, would reduce Medicare costs by \$17 billion to \$31 billion per year.<sup>14</sup>
- **Americans Want Liability Reform...** Three-quarters of Americans surveyed said they wanted their elected representatives in Washington to support comprehensive medical liability reform, and 64 percent said medical liability lawsuits are one of the primary reasons behind rising health care costs.<sup>15</sup>

*Medical liability reform works. Americans want Congress to take action in support of reform that benefits patients, not lawyers.*

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<sup>10</sup> Physician Insurers Association of America, December 9, 2002

<sup>11</sup> Medical Liability Monitor, October 2008.

<sup>12</sup> "Texas finally home to enough ER doctors," *Dallas Morning News*, February 19, 2009.

<sup>13</sup> Medical Liability Monitor Rate Survey, October 2008.

<sup>14</sup> "Addressing the new Health Care Crisis: Reforming the Medical Litigation System to Improve the Quality of Health Care," Office of the Assistant Secretary for Planning and Evaluation, US Dept of HHS, 2003.

<sup>15</sup> HCLA Poll, 2006. [www.hcla.org](http://www.hcla.org)