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COSTS OF THE CURRENT MEDICAL MALPRACTICE SYSTEM ARE MUCH LOWER THAN PEOPLE THINK

Medical malpractice claims and premiums are a tiny percentage of the total costs of health care in this country.

- Medical malpractice payouts are less than one percent of total U.S. health care costs. All “losses” (verdicts, settlements, legal fees, etc.) have stayed under one percent for the last 18 years. Moreover, medical malpractice premiums are less than one percent of total U.S. health care costs as well. Dropping for nearly two decades, malpractice premiums have stayed below one percent of health care costs. Americans for Insurance Reform, “Think Malpractice is Driving Up Health Care Costs? Think Again,” <http://www.insurance-reform.org/pr/AIRhealthcosts.pdf>.
- The Congressional Budget Office found that “Malpractice costs account for less than 2 percent of [health care] spending.” Congressional Budget Office, *Limiting Tort Liability for Medical Malpractice* 1, 6 (Jan. 8, 2004).

Medical malpractice cases are a tiny percentage of tort cases filed each year and the vast majority settle without litigation.

- Medical malpractice cases account for only about four percent of tort cases. *Examining the Work of State Courts, 2005, A National Perspective from the Court Statistics Project* (2006) at 29.
- In the Harvard closed claims study, only fifteen percent of claims were decided by trial verdict. Other research shows that 90 percent of cases are settled without jury trial, with some estimates indicating that the figure is as high as 97 percent. Testimony of Neil Vidmar, Russell M. Robinson, II Professor of Law, Duke Law School before The Senate Committee on Health, Education, Labor and Pensions, “Hearing on Medical Liability: New Ideas for Making the System Work Better for Patients,” June 22, 2006 at 17.

Contrary to popular myth, few injured patients file lawsuits.

- Between 44,000 and 98,000 Americans die each year (and 300,000 are injured) due to medical errors in hospitals alone. Yet eight times as many patients are injured as ever file a claim; 16 times as many suffer injuries as receive any compensation. National Academy of Sciences Institute of Medicine, “To Err is Human” (1999); Harvard Medical Practice Study (1990).
- At the highest level, the estimated number of medical injuries (in hospitals and otherwise) is more than one million per year; approximately 85,000 malpractice suits are filed annually. “With about ten times as many injuries as malpractice claims, the only conclusion possible is that injured patients rarely file lawsuits.” David A. Hyman and Charles Silver, “Medical Malpractice Litigation and

Tort Reform: It's the Incentives, Stupid," 59 Vand. L. Rev. 1085, 1089 (May 2006) (citing Brian Ostrom, Neal Kauder & Neil LaFontain, Examining the Work of State Courts (2003) at 23).

Medical malpractice claims are not “exploding”.

- According to Public Citizen’s analysis of National Practitioner Data Bank (NPDB) data, between 1991 and 2005, the total number of malpractice payments made on behalf of doctors declined 15.4 percent (with judgments and settlements); the number of malpractice payments per 100,000 Americans dropped more than ten percent. Public Citizen, Congress Watch, *The Great Medical Malpractice Hoax: NPDB Data Continue to Show Medical Liability System Produces Rational Outcomes*, (January 2007).

Medical malpractice payouts are far smaller than commonly believed and are declining.

- According to Public Citizen’s analysis of National Practitioner Data Bank (NPDB) data, “The average payment for a medical malpractice verdict in 1991 was \$284,896. In 2005, the average was \$461,524. Adjusting for inflation, however, shows that the average is actually declining. The 2005 average adjusted for inflation is only \$260,890 — a decline of 8 percent since 1991.” Public Citizen, Congress Watch, *The Great Medical Malpractice Hoax: NPDB Data Continue to Show Medical Liability System Produces Rational Outcomes*, (January 2007) at 5, 9.
- Public Citizen also found that the total number of malpractice payments made on behalf of doctors, including judgments and settlements, declined 15.4 percent from 2001-2005 (from 16,588 in 2001 to 14,033 in 2005) and “the number of payments per 100,000 people in the U.S. also fell since 2001 – from 5.82 to 4.73 – a decline of 18.6 percent. Since 1991, the number of payments per 100,000 people declined more than 10 percent.”
- Total medical malpractice payouts, for injuries and deaths caused by medical negligence in the nation, have recently hovered between \$5 billion and \$6 billion annually. This is less than half of what Americans pay for dog and cat food each year. Americans for Insurance Reform, *Stable Losses/Unstable Rates, 2007*, <http://www.insurance-reform.org/StableLosses04.pdf>; The Pet Food Institute puts these figures at \$13 to \$14 billion annually over the past few years. See, http://www.petfoodinstitute.org/reference_pet_data.cfm