

# MYTHBUSTER

## 10 Things You Should Know About ... MEDICAL MALPRACTICE

1. Insurance companies are paying victims of medical negligence on average approximately \$30,000. Average payouts have stayed virtually flat for the last decade.<sup>1</sup>
2. Medical malpractice costs, as a percentage of national health care expenditures, are at an all time low, 0.55 percent.<sup>2</sup>
3. According to the National Academy of Sciences, up to 98,000 people are killed each year by medical errors in hospitals – far more than die from car accidents, breast cancer or AIDS.<sup>3</sup>
4. Total national costs (lost income, lost household production, disability and health care costs) of negligence in hospitals are estimated to be between \$17 billion and \$29 billion each year.<sup>4</sup>
5. Eight times as many patients are injured by medical malpractice as ever file a claim; 16 times as many suffer injuries as receive any compensation.<sup>5</sup>
6. According to the National Center for State Courts, there has been no change in the volume of medical malpractice cases in the last five years.<sup>6</sup>
7. Injured medical malpractice patients win before juries in only 23 percent of cases<sup>7</sup>; in 1992, the rate was 7.5 percent higher at 30.5 percent.<sup>8</sup> Only 1.1 percent of medical malpractice plaintiffs who prevail at trial are awarded punitive damages.<sup>9</sup>
8. According to studies in several states, there is no correlation between where physicians decide to practice and state liability laws or insurance rates.<sup>10</sup>
9. Tort law limits do not lower insurance rates; states with little or no tort law restrictions have experienced approximately the same changes in insurance rates as those states that have enacted severe restrictions on victims' rights.<sup>11</sup>
10. Numerous hospital and medical procedures have been made safer as a result of lawsuits, including anesthesia procedures, catheter placements, drug prescriptions, hospital staffing levels, infection control, nursing home care and trauma care.<sup>12</sup>

---

## NOTES

<sup>1</sup> Memo from Joanne Doroshow to Interested Persons with attached spreadsheet prepared by J. Robert Hunter, Director of Insurance, Consumer Federation of America, November 14, 2001.

<sup>2</sup> *Ibid.*

<sup>3</sup> Kohn, Corrigan, Donaldson, Eds., *To Err is Human; Building a Safer Health System*, Institute of Medicine, National Academy Press: Washington, DC (1999).

<sup>4</sup> *Ibid.*

<sup>5</sup> Harvard Medical Practice Study, *Patients, Doctors and Lawyers: Medical Injury, Malpractice Litigation, and Patient Compensation in New York* (1990).

<sup>6</sup> *Examining the Work of State Courts, 2001; A National Perspective from the Court Statistics Project* (2001), p. 31. This finding is based on medical malpractice data from 14 states.

<sup>7</sup> *Ibid* at 94.

<sup>8</sup> “Tort Trials and Verdicts in Large Counties, 1996,” U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, NCJ-179769 (August 2000), p. 9.

<sup>9</sup> *Ibid* at 7.

<sup>10</sup> Wlazelek, Ann, “Doctors’ ad campaign baseless; They’re not fleeing Pa., but malpractice straits create ‘hostile’ climate,” *Morning Call*, March 24, 2002; “Doctors not leaving Pittsburgh despite costly insurance,” *Associated Press*, November 12, 2001; Goldstein, Josh, “Recent Census of Doctors Show No Flight from Pennsylvania,” *Philadelphia Inquirer*, October 2, 2001; Leonard, Martha, “State has seen sharp increase in number of doctors,” *Sunday Gazette Mail*, February 25, 2001; Kinney and Gronfein, “Indiana’s Malpractice System: No-Fault by Accident,” 54 *Law & Contemp. Probs.* 169, 188 (1991), cited in Galanter, Marc, “Real World Torts,” 55 *Maryland L. Rev.* 1093, 1152-1153 (1996); Kinney, “Malpractice Reform in the 1990s, Past Disappointment, Future Success?” 20 *J. Health Pol. Pol’y & L.* 99, 120 (1996), cited in Galanter, Marc, “Real World Torts,” 55 *Maryland L. Rev.* 1093, 1152 (1996).

<sup>11</sup> J. Robert Hunter and Joanne Doroshow, *Premium Deceit: The Failure of “Tort Reform” to Cut Insurance Prices*, Center for Justice & Democracy (1999).

<sup>12</sup> Meghan Mulligan and Emily Gottlieb, *Lifesavers: CJ&D’s Guide to Lawsuits that Protect Us All*, Center for Justice & Democracy (2002).