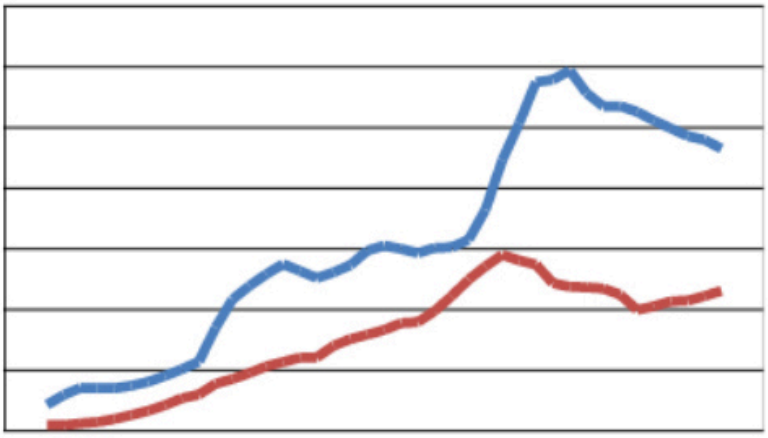
Americans for Insurance Reform
"PROTECTING RIGHTS, NOT WRONGS"

185 West Broadway
New York, NY 10013
(212) 431-2882
info@insurance-reform.org
www.insurance-reform.org
(A project of the Center for Justice & Democracy at New York Law School)

STABLE LOSSES



UNSTABLE RATES 2016

J. Robert Hunter
Joanne Doroshow

November 2016

185 West Broadway
New York, NY 10013
(212) 431-2882
info@insurance-reform.org
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Stable Losses/Unstable Rates 2016

SUMMARY/KEY FINDINGS

Since releasing its first *Stable Losses/Unstable Rates* study in 2002, Americans for Insurance Reform (AIR), a coalition of nearly 100 consumer groups around the country, has periodically updated studies examining past decades of medical malpractice insurance trends. AIR has decided to take a look again at insurance market trends in light of current data by examining four decades of medical malpractice claims and premiums, adjusted for inflation and by the number of U.S. doctors.

AIR finds that when adjusted for medical care inflation, both premiums and claims per physician are currently at their lowest level in four decades. Even when adjusted by a more conservative inflationary adjustment (urban consumers CPI index), premiums are still the lowest they have ever been, and claims are at their lowest since 1982.

Stable Losses/Unstable Rates 2016 also finds that total payouts over the last four decades have never spiked and have generally tracked the rate of inflation. Premiums, on the other hand, sharply increased for doctors three times over the last 40 years – in the mid-1970s, in the mid-1980s, and in the early 2000s. Each time, these volcanic eruptions in medical malpractice insurance rates developed into liability insurance "crises" for doctors. These past crisis periods – also called "hard markets" – lasted three to four years and were followed by years of stable or even declining rates, called "soft markets." (We are currently in the tenth year of a soft market period.) These data also make clear that those sudden "hard market" rate hikes did not track malpractice claims or payouts whatsoever. Instead, rates rose or fell in sync with the insurance "cycle," dictated by the state of the economy and insurance industry profitability, including gains or losses experienced by the insurance industry's bond and stock market investments.

The data plainly show that "hard markets" are not caused by tort system costs. However, for political effect during each crisis period, the insurance industry falsely blames lawsuits and the

small number of injured patients who sue in court[1] for the industry's decision to impose severe rate hikes on doctors.[2] The data make clear that enacting "tort reform" does not lower rates or prevent future crises. Lawmakers should focus instead on controlling the power and the abuses of the insurance industry.

BACKGROUND: HISTORIC CYCLES

Medical liability insurance is part of the property/casualty sector of the insurance industry. This industry's profit levels are cyclical, with insurance premium growth fluctuating during hard and soft market conditions. This is because insurance companies make most of their profits, or return on net worth, from investment income. During years of a strong stock market, high interest rates and/or excellent insurer profits, insurance companies engage in fierce competition for premium dollars to *invest* for maximum return.[3] This results in competitive *underpricing* of policies when rates rise less than inflation. This is called the "soft market," the duration of which is typically around six to ten years. However, when investment income decreases because the stock market plummets (or as in past cycles, interest rates drop) and/or cumulative price cuts make profits unbearably low, the industry responds by sharply increasing premiums and reducing coverage, creating a "hard market." For doctors, a "liability insurance crisis" is the result.[4] Hard markets are followed by soft markets, when rates stabilize once again.

The following chart shows this economic cycle at work.

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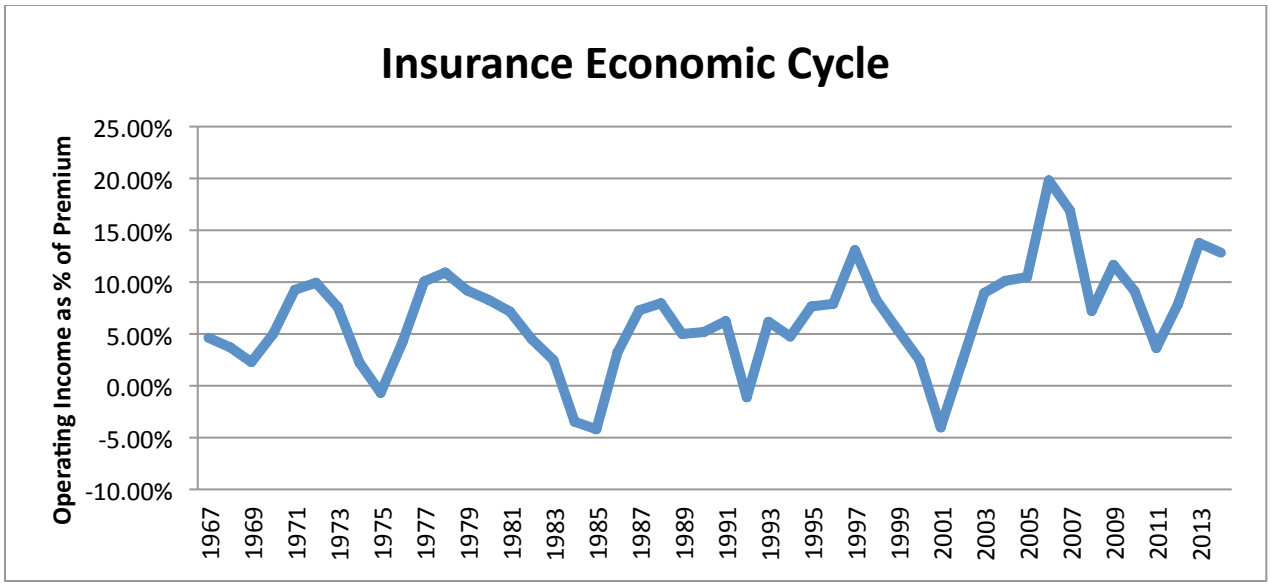
[1] Medical errors, most of which are preventable, are the third leading cause of death in America. *See*, Marshall Allen, "How Many Die From Medical Mistakes in U.S. Hospitals?" *ProPublica,* September 19, 2013, http://www.propublica.org/article/how-many-die-from-medical-mistakes-in-us-hospitals. But the vast majority of patient harms never result in a lawsuit. Heather G. Lyu et al., "Medical Harm: Patient Perceptions and Follow-up Actions," *Journal of Patient Safety*, November 13, 2014, http://journals.lww.com/journalpatientsafety/Abstract/publishahead/Medical_Harm___Patient_Perceptions_and_Follow_up.99712.aspx. Some studies say, "only about 1% of adverse events due to medical negligence result in a claim." Martin Makary and David E. Newman-Toker, "Measuring Diagnostic Errors in Primary Care," *JAMA Internal Medicine* , March 25, 2013, http://archinte.jamanetwork.com/article.aspx?articleid=1656536.

[2] *See also,* Americans for Insurance Reform, *Premium Deceit: The Failure of "Tort Reform" to Cut Insurance Prices* (November 2016), http://centerjd.org/content/premium-deceit-2016-failure-tort-reform-cut-insurance-prices.

[3] This is particularly true with regard to commercial insurance, like liability insurance for businesses or malpractice insurance. The personal lines market, like auto and homeowners insurance, is not as competitive because of the lack of knowledge of consumers and the resulting inertia in the marketplace.

[4] Today's extended soft market is also the result of excessive pricing and over-reserving that took place during the last hard market, *i.e.*, insurance crisis. "Reserves" are funds insurers set aside for payment of future claims. Reserves include estimates of some claims they have received but also insurers' "estimates" of claims that they do not even know about yet (called "Incurred but Not Reported" or "IBNR").



(Note that the 1992 data point was not a classic cycle bottom, but reflected the impact of Hurricane Andrew and other catastrophes in that year.)

Another economic pattern related to the hard and soft markets is the manipulation of money insurers set aside as "reserves" for payment of future claims. Reserves include estimates of some claims they have received but also insurers' "estimates" of claims that they do not even know about yet (called "Incurred but Not Reported" or "IBNR"). During hard markets (three or four years of sudden rate hikes), insurers may vastly (and unnecessarily) increase reserves despite no increase in payouts or any trend suggesting large future payouts. This phenomenon seems often to be politically inspired, used by insurers as a way to justify imposing large premium increases for doctors and to report profits that appear to be more reasonable than they really are.[5] During subsequent soft markets, these reserves are often released through income statements as profits, since they are actually not needed to pay future claims. Also, during the soft phase of the cycle, insurers try to gain market share, and they must show profits to keep rates down. Insurers may use reserve releases to help them look more profitable than they are when aggressively seeking new business.

[5] *See also*, Tom Baker, *The Medical Malpractice Myth*, University of Chicago Press, 2005, at 45 et seq.

THE HISTORY OF HARD AND SOFT MARKETS IN THE UNITED STATES

Hard Market – Liability Insurance Crisis, 1974 to 1977

The first liability insurance crisis in this country occurred in the mid-1970s, when co-author J. Robert Hunter was the nation's Federal Insurance Administrator. Hunter was part of the inter-agency working group formed to examine whether the insurance industry's claimed "explosion" of medical malpractice claims was causing the huge and sudden jump in premiums that doctors were experiencing.

Hunter's research immediately found that data were not available to explain why rates were skyrocketing. Therefore, working with the National Association of Insurance Commissioners (NAIC), the inter-agency group undertook a closed-claim study. The closed-claim study revealed that there was no "explosion" of claims and no justification for insurers drastically raising rates. The group concluded that the insurers had panicked from lack of data. They reported back to the White House that the problem seemed attributable to insurer economics and negotiated with the NAIC to create a new medical malpractice line of data in the Annual Statement to enable them to monitor the situation over time.

However, this did not stop the industry from demanding huge rate hikes from state regulators and convincing lawmakers that the only way to bring rates under control was to limit the legal rights of injured victims. Insurers learned that state legislators, who were asked to limit victims' rights in the wake of the manufactured insurance crisis, would do so and many states did. For example, California enacted the Medical Injury Compensation Reform Act, or MICRA, which among other things, placed a $250,000 cap on non-economic damages for malpractice victims.[6] These political lessons were well learned by the insurance industry and have carried them through the next four decades.

Soft Market – Stable Rates, 1978 to 1984

After the hard market period ended, the country entered a six-year soft-market phase. During these years, insurers lowered prices and insured poor risks just to get premium dollars to invest, taking advantage of the ultra-high interest rates of the early 1980s.[7] However, eventually these price cuts became unbearable. Combined with dropping interest rates and investment income, insurance insiders signaled to the industry that the soft market period had to end. The industry needed to raise rates quickly and sharply, and began pressuring competitors within the industry

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[6] *See* Cal. Civil Code §3333.2. *See also,* Americans for Insurance Reform, *Premium Deceit: The Failure of "Tort Reform" to Cut Insurance Prices* (November 2016), http://centerjd.org/content/premium-deceit-2016-failure-tort-reform-cut-insurance-prices.

[7] "The Liability Insurance Crisis," Hearings Before the Subcomm. On Economic Stabilization of the House Comm. On Banking, Finance and Urban Affairs, 99th Cong., 2nd Sess. 83 (1986)(Testimony of J. Robert Hunter).

to stop competing for premium dollars and raise rates together – price-fixing behavior that would be illegal in any other industry.[8]

Hard Market – Liability Insurance Crisis, 1985 to 1988

In the mid-1980s, doctors and other commercial customers of liability insurance suddenly found themselves in the midst of a "crisis." Insurance rates were skyrocketing, up 300 percent or more for some. Many could not find coverage at any price. The situation received extensive media attention, such as *Time Magazine*'s March 1986 cover story entitled, "Sorry, Your Policy is Canceled."[9]

Study after study examining the property/casualty insurance industry found that the "insurance crisis" was a self-inflicted phenomenon caused by the mismanaged soft market underwriting practices of the industry itself, leading *Business Week* magazine to explain:

> Even while the industry was blaming its troubles on the tort system, many experts pointed out that its problems were largely self-made. In previous years the industry had slashed prices competitively to the point that it incurred enormous losses. That, rather than excessive jury awards, explained most of the industry's financial difficulties.[10]

The Ad Hoc Insurance Committee of the National Association of Attorneys General made a similar finding after studying the "crisis" in 1986:

> The facts do not bear out the allegations of an "explosion" in litigation or in claim size, nor do they bear out the allegations of a financial disaster suffered by property/casualty insurers today. They finally do not support any correlation between the current crisis in availability and affordability of insurance and such a litigation "explosion." Instead, the available data indicate that the causes of, and therefore solutions to, the current crisis lie with the insurance industry itself.[11]

State commissions in New Mexico, Michigan, and Pennsylvania reached similar conclusions.[12] Insurance industry executives also admitted this internally. For example, in 1986, Maurice R. Greenberg, then President and Chief Executive Officer of American International Group, Inc., told an insurance audience in Boston that the industry's problems were due to price cuts taken

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[8] The McCarran-Ferguson Act exempts the insurance industry from antitrust laws and allows the industry to collude on important components of insurance prices, an anti-competitive practice that is illegal for other industries. 15 U.S.C. §§1012-1015.

[9] George J. Church, "Sorry, Your Policy Is Canceled," *Time Magazine,* March 24, 1986.

[10] "What Insurance Crisis?" *Business Week*, January 12, 1987.

[11] Ad Hoc Insurance Comm. of the National Association of Attorneys General, *Analysis of the Causes of the Current Crisis of Unavailability and Unaffordability of Liability Insurance* (May 1986).

[12] *See*, *e.g.*, New Mexico State Legislature, *Report of the Interim Legislative Workmen's Compensation Comm. on Liability Insurance and Tort Reform,* November 12, 1986; Michigan House of Representatives, *Study of the Profitability of Commercial Liability Insurance,* November 10, 1986; Insurance Comm. Pennsylvania House of Representatives, *Liability Insurance Crisis in Pennsylvania,* September 29, 1986.

"to the point of absurdity" in the early 1980s. Had it not been for these cuts, Greenberg said, there would not be "'all this hullabaloo' about the tort system."[13]

But to the public and to lawmakers, insurers told a different story. On March 19, 1986, the *Journal of Commerce* reported that the Insurance Information Institute (III) was beginning a $6.5 million nationwide advertising campaign designed in III's words to "change the widely held perception that there is an insurance crisis to a perception of a lawsuit crisis."[14] State legislatures, regulators and voters in ballot initiative states were all told by business and insurance lobbyists (and their PR firms) that the only way to bring down insurance rates was to make it more difficult for injured consumers to sue in court.[15] The influence of reinsurers over rates was significant as well. This was true even for doctor-owned mutual insurance companies, which account for more than half the medical liability insurance in this country and should be independent of the profit considerations that motivate pricing decisions by the rest of the industry.[16]

During this period, great pressure was brought to bear on state legislatures to restrict the rights of innocent Americans to be compensated for their injuries and to hold negligent doctors, hospitals and others accountable in court. Lawmakers in 46 states succumbed to this pressure and passed "tort reforms"[17] after being told by insurance companies and others that this was the only way to reduce skyrocketing insurance rates. In a November 7, 1988 editorial entitled "Prepare for the backlash," the *National Underwriter,* an insurance trade publication, bluntly conceded, "Let's face it. The only reason tort reform was granted in many states is because people accepted our argument that it was needed to control soaring insurance rates."

In 1989, as a new soft market phase was beginning, Michael Hatch, then Commerce Commissioner of Minnesota, released an investigation of two malpractice insurers including the country's largest at the time, St. Paul. Hatch found that during the prior six years, these companies had increased doctors' malpractice premiums some 300 percent. Yet neither the number of claims against doctors nor the amount paid out by insurance companies had increased. In response to a question by *ABC's Nightline* as to how such unjustified rate-gouging could

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[13] Judy Greenwald, "Insurers Must Share Blame: AIG Head," *Business Insurance,* March 31 1986.
[14] "$6.5 Million in Ads Targets Lawsuit Crisis," *Journal of Commerce*, March 19, 1986.
[15] *See*, Americans for Insurance Reform, *Premium Deceit: The Failure of "Tort Reform" to Cut Insurance Prices* (November 2016), http://centerjd.org/content/premium-deceit-2016-failure-tort-reform-cut-insurance-prices.
[16] For example, in 1985 testimony before the Maryland Governor's Task Force on Maryland Mutual Society's request for a 70 percent rate increase for OB/GYNs (when a 10 percent reduction was justified), the company's president stated, "In order to keep [reinsurers'] participation on cover we had to accede to some strong suggestions from the reinsurers to beef up the rate charged to the OB's and it might be relevant to point out Med Mutual is...the only company in the state writing OB's." *The Liability Insurance Crisis,* Hearings Before the Subcomm. On Economic Stabilization of the House Comm. On Banking, Finance and Urban Affairs, 99th Cong., 2nd Sess. 83 (1986)(Testimony of J. Robert Hunter)(Exh. I, Sheet 1). In 1987, after heavy lobbying by the Medical Mutual Society, Maryland's legislature passed a bill to limit collateral source payments in medical malpractice cases. According to Maryland Delegate Lawrence Wiser, in early August 1987, John Spinella, then of Medical Mutual, was asked why there was little rate reduction as a result of the new collateral source law. Spinella replied that there would not be much rate impact because Medical Mutual still had to pay the same premiums to their London reinsurers. Telephone Interview by Joanne Doroshow with Delegate Lawrence Wiser, October 13, 1987.
[17] *See, e.g.,* Product Liability Reform Act of 1997, Report of the Senate Committee on Commerce, Science, and Transportation, 105th Cong., 1st. Sess. (1997)(Minority Views of Mr. Hollings).

happen, Hatch responded, "Because they had the opportunity to do it. There was a limited market. People need coverage. The companies knew they had a corner on it, and they raised their rates accordingly."

Indeed, there was never any evidence of claims blowing up in the mid-1980s. Rather, there was a consistent increase in claims over time roughly equal to inflation. However, premiums had, indeed, exploded.[18] The National Association of Insurance Commissioners undertook a major study of what happened, publishing its findings in 1991 in a book called *Cycles and Crises in Property/Casualty Insurance: Causes and Implications for Public Policy*.[19] The NAIC concluded that these cycles were real and caused by some or all of three contributing factors:

1. Adverse shock losses that move insurers away from their target leverage ratios leading to supracompetitive (excessive) prices;
2. Changes in interest rates; and
3. Under-pricing in soft markets.

The report stated that regulators saw "considerable price cutting in soft markets which depletes surplus and increases the severity of the reversal when the market tightens." This is particularly true in long-tail lines like medical malpractice.

At the time, this report's co-author J. Robert Hunter (and others) called for increased regulation to keep prices from becoming excessive during hard markets and inadequate during soft markets. The NAIC was cautious about this type of regulation, in part because it would have required insurers to raise prices during the soft part of the cycle. This would be a difficult political step to take to be sure – yet necessary to mitigate the damage of cyclical excesses. However, with the exception of California's 1988 voter initiative, Prop. 103,[20] this type of insurance rate regulation was not enacted in states following the devastating hard market of the 1980s.

Soft Market – Stable Rates, 1988 to 2001

As shown by Exhibits A and B and Appendix A and B, for the next 13 years rates stabilized. The strong financial markets of the 1990s expanded the usual six to 10-year soft market phase of the cycle. No matter how much insurers cut their rates, they wound up with a great profit year when investing the float on the premium in this amazing stock and bond market. Further, interest rates were relatively high as the Fed focused on inflation.

An interesting political phenomenon occurred during this prolonged soft market: the "tort reform" movement's principal justification for "tort reform" – spiking insurance rates – evaporated. This led to some interesting admissions by representatives of the movement. For example, towards the end of this soft market period, the Center for Justice & Democracy/

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[18] See Exh. A and B; Appendix A and B.
[19] National Association of Insurance Commissioners, *Cycles and Crises in Property/Casualty Insurance: Causes and Implications for Public Policy* (1991), http://www.naic.org/documents/prod_serv_special_cyc_pb.pdf
[20] *See* Consumer Watchdog, "Proposition 103 – Main Provisions and Status," April 1, 2000, http://www.consumerwatchdog.org/feature/proposition-103-main-provisions-and-status

Americans for Insurance Reform published a 1999 study called *Premium Deceit – the Failure of "Tort Reform" to Cut Insurance Prices*.[21] The study was the first-ever look at 14 years of property/casualty insurance price trends nationwide. The study found that enactment of laws restricting injured victims' rights to go to court had no impact on rates. States with little or no tort law restrictions experienced approximately the same changes in insurance rates as those states that enacted severe restrictions on victims' rights, confirming that insurance rate hikes were driven by factors having nothing to do with a state's tort system.

When asked to comment on these findings, Sherman Joyce, president of the American Tort Reform Association (ATRA), told *Liability Week* on July 19, 1999, "We wouldn't tell you or anyone that the reason to pass tort reform would be to reduce insurance rates." ATRA General Counsel Victor Schwartz told the same publication, "[M]any tort reform advocates do not contend that restricting litigation will lower insurance rates, and I've never said that in 30 years." And when the Center for Justice & Democracy reissued *Premium Deceit* in 2002, Debra Ballen, American Insurance Association executive vice president, responded in a March 13, 2002 news release, "Insurers never promised that tort reform would achieve specific savings." In other words, these spokespeople essentially confirmed *Premium Deceit's* conclusions, in striking contrast to the industry's heated "tort reform" rhetoric during both of the prior two liability insurance crises.

But the soft market was not to last. In 2000, the market started to turn once more with a vengeance as the Fed cut interest rates again and again. The prolonged soft market was finally about to end.

Hard Market – Liability Insurance Crisis, 2002 to 2006

In 2001, one of the country's largest medical malpractice insurance companies, St. Paul, pulled out of the medical malpractice insurance market having mismanaged its underwriting and reserves during the prior soft market. With a 20 percent share of the national market, this created significant supply and demand problems in some states. According to a June 24, 2002 *Wall Street Journal* front-page investigative article, a few smaller companies took St. Paul's lead and collapsed. The head of a leading medical malpractice insurer described problems in the medical malpractice insurance market: "I don't like to hear insurance-company executives say it's the tort [injury-law] system – it's self-inflicted."[22]

As another insurance industry insider also put it in 2001: "The [medical malpractice insurance] market is in chaos.... Throughout the 1990s ... insurers were ... driven by a desire to accumulate large amounts of capital with which to turn into investment income. Regardless of the level of ... tort reform, the fact remains that if insurance policies are consistently underpriced, the insurer will lose money."[23]

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[21] *See* Center for Justice & Democracy, *Premium Deceit: The Failure of "Tort Reform" to Cut Insurance Prices* (1999), http://centerjd.org/system/files/PremiumDeceit.pdf

[22] Christopher Oster and Rachel Zimmerman, "Insurers' Missteps Helped Provoke Malpractice 'Crisis,'" *Wall Street Journal*, June 24, 2002.

[23] Charles Kolodkin, "Medical Malpractice Insurance Trends? Chaos!" International Risk Mgmt. Institute

But again, policymakers were not listening to experts like this, who were explaining what was now a very familiar cycle. Instead, federal and state lawmakers and regulators (and the general public) once again turned to medical and insurance lobbyists for an explanation as to why doctors' insurance rates were rising. The lobbyists had one explanation: exploding tort system costs. The industry argued and, worse, convinced doctors to believe that patients who filed medical malpractice lawsuits were being awarded more and more money, leading to unbearably high "losses" for insurers. Although previous studies showed it to be untrue, insurers stated that to recoup money paid to patients, medical malpractice insurers were being forced to raise insurance rates or, in some cases, pull out of the market altogether.

However, as Exhibits A and B, and Appendix A and B, show:

- Inflation-adjusted payouts per doctor failed to increase between 2004 and 2006, a time when doctors' premiums skyrocketed.
- Medical malpractice insurance premiums rose much faster during those years than was justified by insurance payouts.
- At no time were increases in premiums connected to actual payouts.

In addition, during this same period, medical malpractice insurers vastly (and unnecessarily) increased reserves (used for future claims) despite no increase in payouts or any trend suggesting large future payouts. The reserve increases in the years 2001 to 2004 could have accounted for 60 percent of the price increases witnessed by doctors during the period.[24] Indeed, according to A.M. Best, reserves were "redundant" (*i.e.*, excessive) from 2002 to 2004.[25] In those years, insurers told lawmakers that they needed to raise rates dramatically for doctors in order to pay future claims. It wasn't true. But as reserves went up, so did rates.

In a 2005 study of the 15 leading medical malpractice insurance companies,[26] former Missouri Insurance Commissioner Jay Angoff found that between 2000 and 2004 the amount that major medical malpractice insurers collected in premiums more than doubled, while their claims payments remained essentially flat. The report also found that many insurers substantially increased their premiums while their claims payouts were decreasing, and that some insurers also reduced projections of their ultimate payouts while increasing their premiums. Specifically, the insurers increased their net premiums by 21 times the increase in their net claims payments. In addition, Angoff's report found that the leading malpractice insurers accumulated record amounts of surplus – the extra cushion insurers hold in addition to the amount they have set aside to pay estimated future claims – during the prior three years.

To say medical malpractice insurers did well during this hard market/liability insurance crisis period would be an understatement. Despite their lobbying position that medical malpractice

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(September 2001), http://www.irmi.com/expert/articles/kolodkin001.asp

[24] *See* Americans for Insurance Reform, *True Risk: Medical Liability, Malpractice Insurance And Health Care* (July 2009), http://www.centerjd.org/system/files/TrueRiskF.pdf.

[25] A.M. Best, "Solid Underwriting Undercut by MPLI's Investment Losses," *Best's Special Report*, April 27, 2009.

[26] Jay Angoff, *Falling Claims and Rising Premiums in the Medical Malpractice Insurance Industry* (July 2005), http://centerjd.org/system/files/ANGOFFReport.pdf

claims and lawsuits were making it difficult for them to survive, these companies thrived. In fact, they did so well that, while every other sector in the economy began suffering through a global economic meltdown, medical malpractice insurers boasted about their "very good" 2008.[27] This came "after posting record profits in 2007."[28]

But because rates had been so high for doctors and hospitals during the 2002 to 2006 crisis, with coverage even unavailable for some, doctors threatened to leave states or give up medicine entirely and were told to blame juries, judges and injured patients. Trade and business associations again conveyed that message widely to lawmakers and the public in campaigning for more so-called "tort reform."[29] The American Medical Association (AMA) announced in March 2002 that it planned to lobby lawmakers and courts in at least 25 states and mount an ad campaign to raise public support for "tort reform." In explaining the AMA's position, its then President Richard Corlin claimed that limits on injured patients' rights to sue were needed because "[m]any practitioners, both generalists and specialists, just can't afford the liability premiums, forcing them to retire early, limit their practice or relocate."[30]

During this period, the U.S. Senate considered and rejected at least five bills containing severe federal medical malpractice litigation limits, having been pushed hard by President George W. Bush.[31] But while Congress failed to enact such legislation, many state lawmakers did. In Texas, for example, voters were coaxed into voting to change their state constitution to allow their own rights to be stripped away. The insurance industry and regulators made loud promises at the time that if "caps" on damages were enacted, insurance companies would lower insurance rates for doctors. Caps were indeed enacted. Yet, immediately thereafter, major insurers requested rate *hikes* as high as 35 percent for doctors and 65 percent for hospitals.[32] As reported in the *Houston Chronicle*,

> House lawmakers sent a stern message to insurance companies Thursday: Medical malpractice lawsuit reforms passed last year were meant to help doctors – not boost

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[27] A.M. Best, "Solid Underwriting Undercut by MPLI's Investment Losses," *Best's Special Report*, April 27, 2009.
[28] *Ibid*.
[29] In January 2002, the American Association of Health Plans (AAHP) and the Physician Insurers Association of America (PIAA) announced that as co-chairs of the American Tort Reform Association's (ATRA) Medical Liability Committee they would "work at the state and federal level to educate opinion leaders on the consequences of frivolous lawsuits on health care access and quality." "AAHP Partners with Physicians to Fight for Medical Malpractice Reform; AAHP to Co-Chair American Tort Reform Association's Medical Liability Committee," *PR Newswire*, January 10, 2002. For more, *see* Americans for Insurance Reform, *Premium Deceit: The Failure of "Tort Reform" to Cut Insurance Prices* (November 2016), http://centerjd.org/content/premium-deceit-2016-failure-tort-reform-cut-insurance-prices.
[30] Simon Avery, "Doctors vow tort reform to reduce insurance costs," *Associated Press*, March 11, 2002. *See also*, "AMA: To Campaign For Malpractice Tort Reform," *American Health Line*, March 13, 2002.
[31] The Senate failed to invoke cloture on 7/09/03 (S.11), 2/24/04 (S.2061), 4/07/04 (S.2207) and 5/08/06 (S.22 and S.23). Most of these bills would have imposed hard non-economic damages caps of $250,000; some applied only to certain types of malpractice; some allowed a limited stacking of damages depending on the number of defendants. *See* Dana Milbank, "Take Two of These and Call Us Next Year," *Washington Post*, May 9, 2006, http://www.washingtonpost.com/wp-dyn/content/article/2006/05/08/AR2006050801317.html
[32] *See, e.g.*, Darrin Schlegel, "Some Malpractice Rates to Rise Despite Prop. 12," *Houston Chronicle*, November 19, 2003; Darrin Schlegel, "Malpractice Insurer Fails in Bid for Rate Hike," *Houston Chronicle*, November 21, 2003; October 2003 rate filing from Texas Medical Liability Insurance Association (JUA) to Texas Department of Insurance.

> profits. Republicans and Democrats who supported the legislation suggested that lawmakers might consider mandatory rate rollbacks if doctors don't get significant rate relief …. Texas Medical Liability Trust is the only major carrier to agree to reduce rates. Others have tried to raise rates. About 60 percent of Texas doctors have not seen a rate decrease, the commissioner said.[33]

Of course, rates failed to drop because the country was still in the midst of a severe "hard market" unrelated to the tort system. Rates were not coming down for anyone – yet.

Soft Market – Stable Rates, 2006 to present

According to A.M. Best, after reaching a high of 14.2 percent in 2003, medical malpractice premium growth began dropping again, decreasing by 6.6 percent nationally in 2007, and by an additional 5.3 percent in 2008.[34] Fast-forward to recent years and the soft market continues. *Medical Liability Monitor* wrote in 2013, "Since 2006, the U.S. [Medical Professional Liability] insurance sector has seen direct written premium fall by roughly 20 percent, suggesting a soft market. At the same time that this traditional soft market indicator has been in free-fall, however, the industry's premium revenue has continued to outpace its claims expenses, with annual combined ratios for the sector coming in at well below 100 percent every year since 2006."[35]

During A.M. Best's 2015 webinar, "State of the Medical Professional Malpractice Liability Insurance Market,"[36] all panelists agreed that medical malpractice rates were still extremely stable, with no sign of the soft market ending anytime soon. As Healthcare Services Group President and CEO Joseph Moody put it, there is "quite a ways to go before the soft market ends." The Physicians Insurance Association of America representative called this "an historic cycle," and that going back 50 years of medical malpractice liability coverage there's never been such a "sustained period of long-term results."

Similarly, during Best's 2016 webinar, The Doctors Company CEO Richard Anderson said that he believed the market will stay soft and will continue this way until the next decade – 2020.[37] He noted that the frequency of claims is flat and, in fact, is at its lowest level in history. Calling this "the new normal," he said, "What's surprising is that by 2016, we would have predicted an uptick in claims due to changes in the Affordable Care Act. But we are not seeing it."

According to the 2016 *Medical Liability Monitor Annual Rate Survey*, published in October 2016, the soft market continues with average rates in 2016 down 0.1 percent from the past year. Moreover, for "the vast majority (75 percent) of insurers in the survey, rates have remained flat

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[33] Jim Vertuno, "House takes insurance firms to task over malpractice rates," *Houston Chronicle,* April 23, 2004.
[34] A.M. Best, "Solid Underwriting Undercut by MPLI's Investment Losses," *Best's Special Report*, April 27, 2009.
[35] "Annual Rate Survey Issue," *Medical Liability Monitor* (October 2013), http://www.milliman.com/uploadedFiles/insight/2013/MLM-Rate-Survey.pdf
[36] A.M. Best webinar, "State of the Medical Professional Malpractice Liability Insurance Market" (May 2015), http://www3.ambest.com/ambv/displaycontent/video.aspx?rc=mpliwebinar515
[37] A.M. Best webinar, "State of the Medical Professional Malpractice Liability Insurance Market (May 2016), http://www3.ambest.com/conferences/events/EventRegister.aspx?event_id=WEB450

between 2015 and 2016.[38] *MLM* notes, "Just under 80 percent of respondents said they believe the market is neither hardening or softening."

However, "in last year's 2015 Annual Rate Survey, insurers reported more rate increases than decreases for the first time since 2006. This trend continues in the 2016 survey. The differential is slightly wider with 15 percent reporting increases and 9 reporting decreases." And while, notes *MLM*, "In the near term, it looks like smooth sailing" and "there do not appear to be any rapidly developing storms on the horizon," there are:

> [S]ome head-winds as the aggregate medical professional liability line of business seems poised to produce stable but less profitable results. Slowly declining underwriting results that reflect rate erosion/moderate loss cost trends across the industry – with no apparent help from a volatile investment environment – suggests overall profitability will follow the lead of underwriting results.

STABLE LOSSES/UNSTABLE RATES: FINDINGS

AIR has examined the most recent medical malpractice insurance data prepared by A.M. Best. These data can now be viewed in light of four decades of data showing what medical malpractice insurers have paid in jury awards, settlements and other costs, as well as the premiums that insurers have charged doctors.

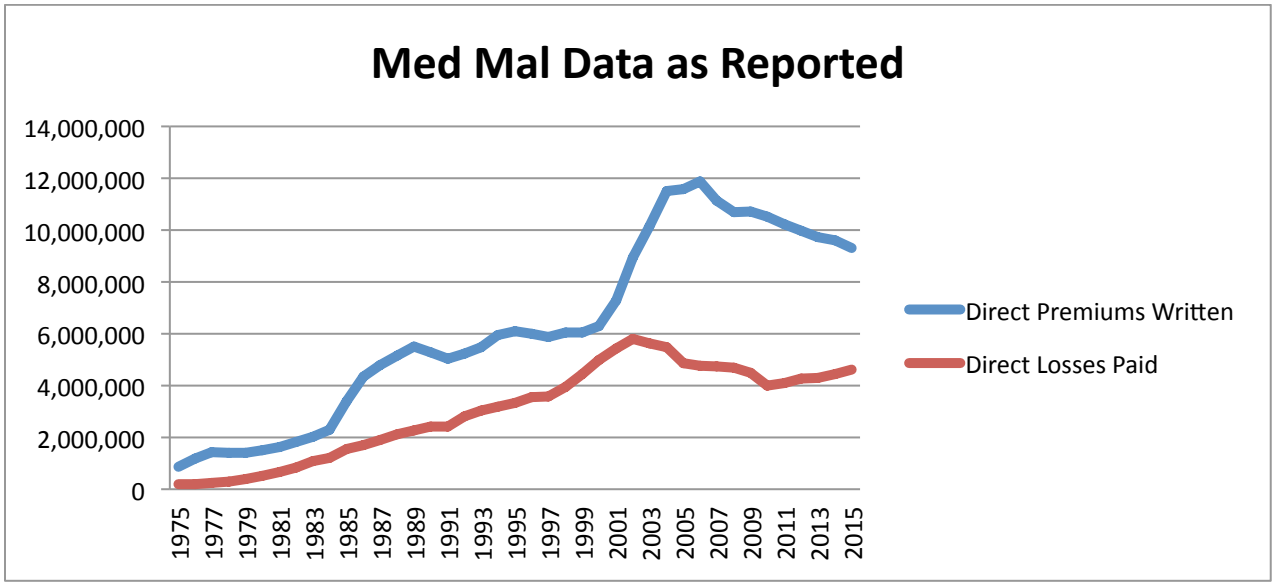
AIR finds that when adjusted for either by medical care inflation (Exhibit A, Appendix A) or by the more conservative urban consumers CPI index (Exhibit B, Appendix B), premiums per physician are currently at their lowest level in four decades. Similarly, paid claims per physician are now the lowest they have been since 1976 (when adjusted for medical care inflation) or 1982 (when adjusted for urban consumers CPI index).

Moreover, the "up and down" premium cycle is clear whether data are adjusted by medical inflation or by the urban consumers CPI index. Premiums were at a high in 1977 (hard market), then dropped through 1983/4 (soft market), increased from 1985 through 1988/9 (hard market), then dropped again through 2001 (soft market), then rose from 2001 through 2004 (hard market) and then began stabilizing again (soft market). Rates have been steadily dropping since then. Claims, on the other hand, have been generally flat to down since the mid-1980s

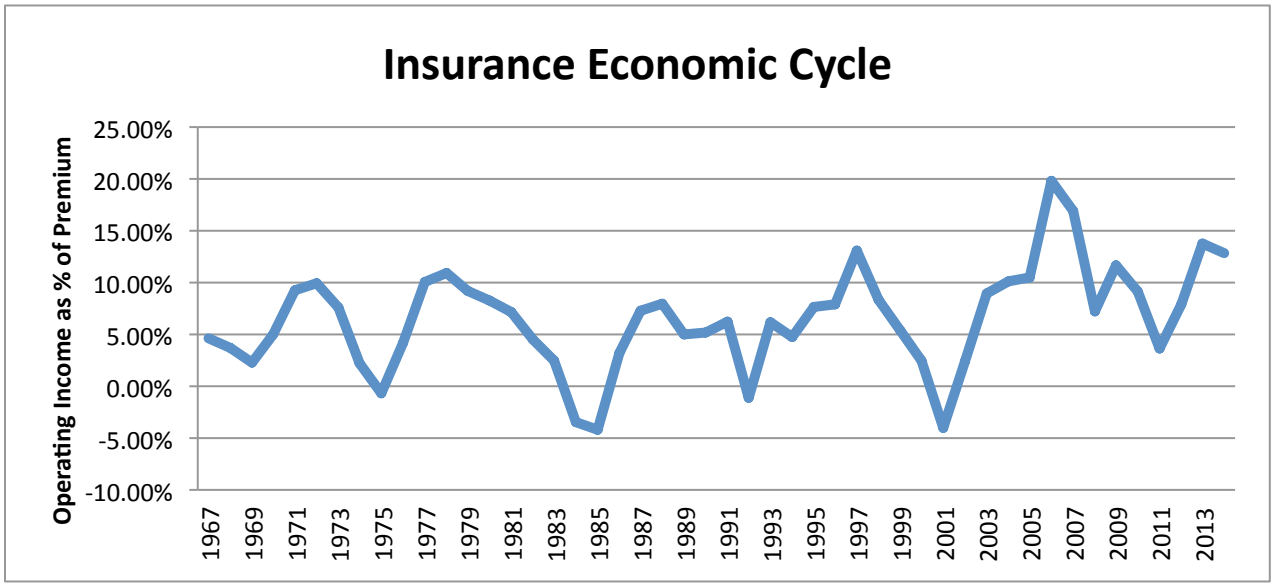
The following chart shows medical malpractice "Direct Premiums Written" per doctor and "Direct Losses Paid" per doctor, as reported (i.e., before any inflation adjustments). "Direct Premiums Written" is the amount of money that insurers collected in premiums from doctors during that year. "Direct Losses Paid" is what insurers actually paid out that year to people who

[38] Paul Greve and Alison Milford, "Do Still Waters Still Run Deep, Medical Professional Liability in 2016," *Medical Liability Monitor*, Annual Rate Survey, October 2016. *See also*, "Medical Malpractice Liability Premiums Remain Flat: Survey," *Insurance Journal*, October 10, 2016.

were injured – all claims, jury awards and settlements – as well as what insurance companies pay their own lawyers to fight claims.



To illustrate comparisons with Exhibits A and B on the following page, here again is a chart showing the industry's economic cycle.



(The 1992 data point was not a classic cycle bottom, but reflected the impact of Hurricane Andrew and other catastrophes in that year.)

Exhibit A – Data Adjusted by Medical Care Inflation

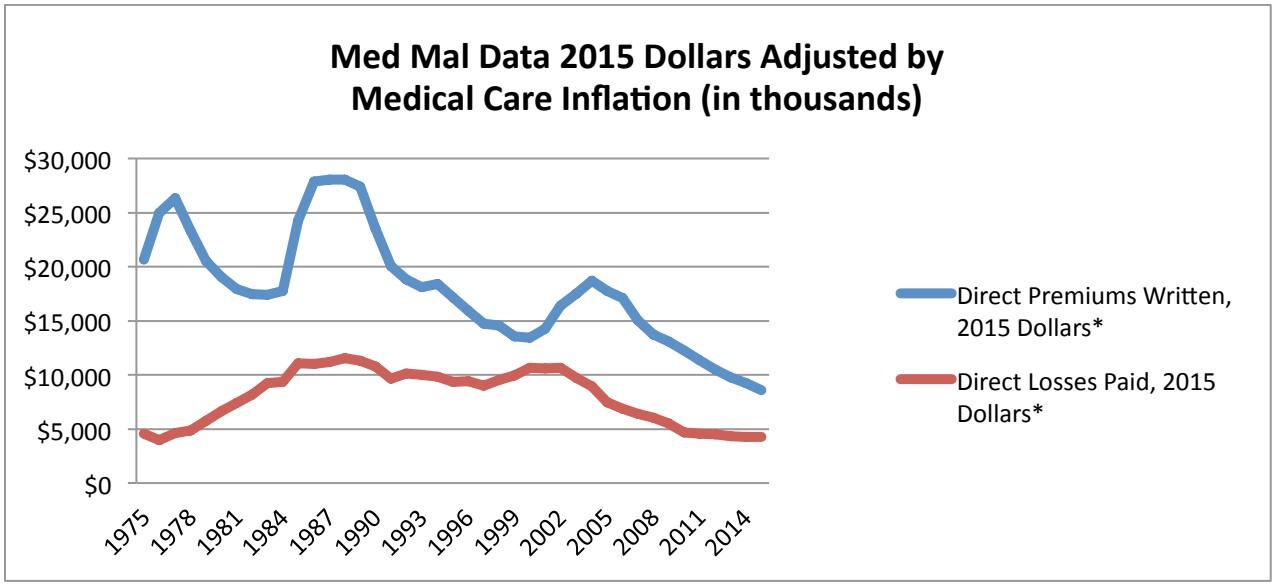
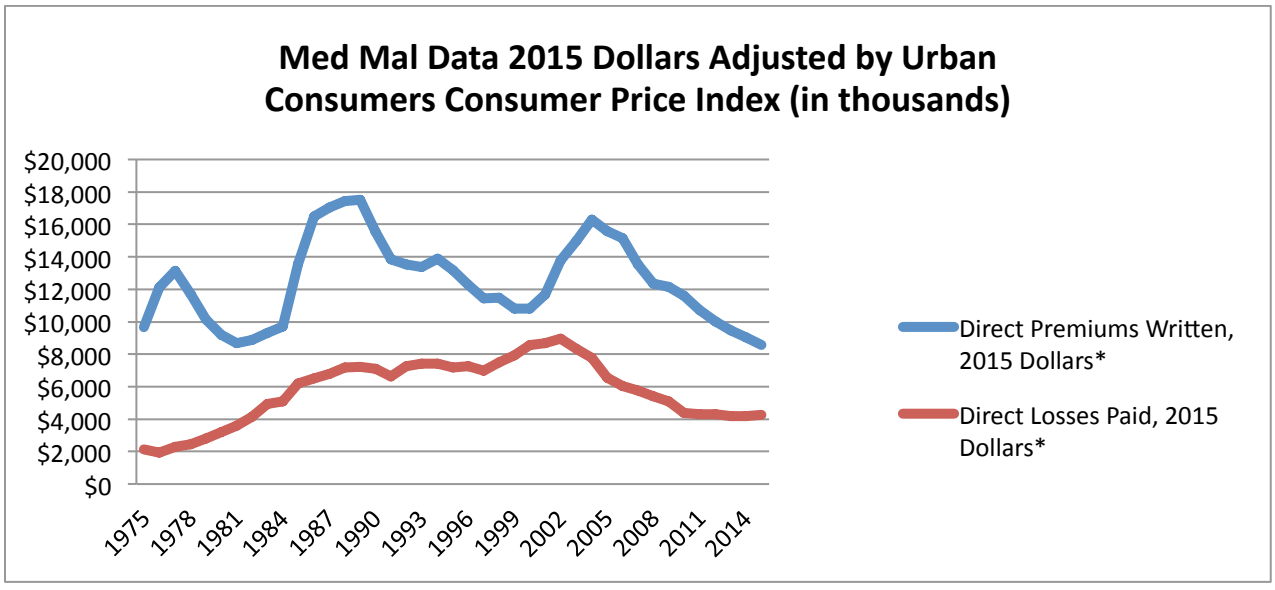


Exhibit B – Data Adjusted by Urban CPI Index



* "Direct Premiums Written" is the amount of money that insurers collected in premiums from doctors during that year. "Direct Losses Paid" is what insurers actually paid out that year to people who were injured – all claims, jury awards and settlements – as well as what insurance companies pay their own lawyers to fight claims. Sources: Premiums and Losses from Special compilation of Annual Statement data by A. M. Best & Co.; Number of total doctors from US Census Bureau; 1976-79, 1988, 1991 and 2015 estimated as straight line growth based on recent observed data. Medical Care Inflation Index: Bureau of Labor Statistics. Urban Consumers Inflation Index: Bureau of Labor Statistics.

CONCLUSION

Since the mid-1970s, data show that (in constant dollars), per physician written premiums — the amount of premiums that doctors have paid to insurers — have fluctuated almost precisely with the insurer's economic cycle. This cycle is driven by such factors as insurer mismanagement of pricing during the cycle and changing investment income. According to the industry's own data, premiums have not tracked costs or payouts in any direct way.

It is also clear that during between 2002 and 2006, during the nation's most recent medical malpractice insurance "crisis," medical malpractice insurance premiums rose much faster than was justified by insurance payouts, which were stable. These hikes were similar to (although perhaps not quite as severe as), the rate hikes of the past "hard" markets, which occurred in the mid-1980s and mid-1970s. But as in past hard markets, none were connected to actual increased payouts. And now, both premiums and claims are falling like a rock.

These data clearly show that periodic liability insurance crises have always been driven by the insurance cycle and not a tort law cost "explosion" as insurance industry and organized medicine lobbyists have claimed. Laws that restrict the rights of injured patients to go to court do not produce lower insurance premiums for doctors. To lower rates or to prevent future liability insurance crises, lawmakers should focus instead on controlling the power and the abuses of the insurance industry.

About Americans For Insurance Reform and the Authors

AMERICANS FOR INSURANCE REFORM is a project of the Center for Justice & Democracy at New York Law School. AIR is a coalition of nearly 100 consumer groups from around the country working to strengthen oversight of property/casualty insurance industry practices.

J. ROBERT HUNTER, an actuary, is co-founder of Americans for Insurance Reform. He was formerly the Commissioner of Insurance for the State of Texas, the Federal Insurance Administrator under both Presidents Carter and Ford, and President and Founder of the National Insurance Consumer Organization. He currently serves as Director of Insurance for the Consumer Federation of America, a federation of some 300 pro-consumer groups with over 50 million Americans as members.

As a consultant on public policy and actuarial issues for various government agencies, his clients have included the U.S. Department of Housing and Urban Development, the General Accounting Office and the Environmental Protection Agency, as well as state governments including California, Florida, Georgia, Massachusetts, Maine, North Carolina, New Jersey, New York, Oklahoma, South Carolina and Texas. Other experience includes work in the private sector, including as Associate Actuary for the Mutual Insurance Advisory Association and Mutual Insurance Rating Bureau (now AIPSO), Actuarial Supervisor for the National Bureau of Casualty Underwriters (now ISO) and Underwriter, Atlantic Mutual and Centennial Insurance Companies.

His awards include the Award for Excellent Service from the Secretary of the Department of Housing and Urban Development (HUD), for work performed from 1971 to 1977, the Esther Peterson Award for lifetime service to consumers in 2002 and twice, the Schraeder-Nelson Publications Award for article of the year: in 2002 for "Enron's Impact on State Insurance Regulation" and in 2007 for "How Regulators Can Return P/C Profits to Reasonable Levels," *Regulator Magazine*, Insurance Regulatory Examiner's Society. He is the author of numerous publications on insurance and related topics and has served as an Executive Committee member and advisor to the National Association of Insurance Commissioners (NAIC). Over the past decades, Mr. Hunter has testified in every state in the union on the insurance cycle and related premium spikes.

JOANNE DOROSHOW, an attorney, is co-founder of Americans for Insurance Reform and Executive Director of the Center for Justice & Democracy at New York Law School, where she is an Adjunct Professor of Law. CJ&D is the only consumer organization in the nation dedicated exclusively to fighting attacks on the civil justice system.

She has worked on civil justice and insurance issues since 1986, when she first directed a project for Ralph Nader on liability and the insurance industry. With Nader, she was author of several reports and numerous materials on civil justice and insurance issues. At CJ&D, Joanne has written or co-authored major CJ&D studies, frequently testifies before Congress and state legislatures and was a member of the New York State Governor's task force on medical malpractice in 2007 and 2008.

Joanne is the recipient of the AAJ Partnership Award, 2016; the Distinguished Service Award, Kansas Association for Justice, 2012; Consumer Advocate of the Year, Consumer Attorneys of California, 2009; Esther Weissman Award, Worker Injury Law and Advocacy Group, 2008; Consumer Education Award, Consumer Attorneys Association of Los Angeles, 2005; Certificate of Recognition, California State Assembly, 2005; Consumer Advocacy Award, Massachusetts Academy of Trial Attorneys, 2003; Consumer Advocate of the Year, Trial Lawyers Association of Metropolitan Washington, DC, 2003; and the Hoosier Freedom Award, Indiana Trial Lawyers Association, 2000.

Appendix A – Data Adjusted by Medical Care Inflation

Year	Direct Premiums Written (thousands)	Direct Losses Paid (thousands)	Loss Ratio	Number Doctors in USA	Medical Care Inflation (CPI-U)	Direct Premiums Written per doctor	Direct Losses Paid per doctor	Year	Direct Premiums Written per doctor **2015 Dollars**	Direct Losses Paid per doctor **2015 Dollars**
1975	865,208	190,867	22.1%	393,742	47.5	$2,197.40	$484.75	1975	$20,667.20	$4,559.24
1976	1,187,978	188,545	15.9%	408,529	52.0	$2,907.94	$461.52	1976	$24,983.23	$3,965.11
1977	1,423,091	248,969	17.5%	423,317	57.0	$3,361.76	$588.14	1977	$26,348.66	$4,609.68
1978	1,412,555	294,456	20.8%	438,104	61.8	$3,224.25	$672.11	1978	$23,308.06	$4,858.71
1979	1,405,991	391,800	27.9%	452,892	67.5	$3,104.47	$865.11	1979	$20,547.10	$5,725.75
1980	1,493,543	521,849	34.9%	467,679	74.9	$3,193.52	$1,115.83	1980	$19,048.23	$6,655.52
1981	1,616,470	665,570	41.2%	485,123	82.9	$3,332.08	$1,371.96	1981	$17,956.75	$7,393.56
1982	1,815,056	847,543	46.7%	501,958	92.5	$3,615.95	$1,688.47	1982	$17,464.15	$8,154.91
1983	2,033,911	1,079,862	53.1%	519,546	100.6	$3,914.79	$2,078.47	1983	$17,385.07	$9,230.24
1984	2,282,590	1,197,979	52.5%	536,986	106.8	$4,250.74	$2,230.93	1984	$17,781.16	$9,332.15
1985	3,407,177	1,556,300	45.7%	552,716	113.5	$6,164.43	$2,815.73	1985	$24,264.05	$11,083.12
1986	4,335,863	1,709,883	39.4%	569,160	122.0	$7,618.00	$3,004.22	1986	$27,896.38	$11,001.17
1987	4,781,084	1,905,491	39.9%	585,597	130.1	$8,164.46	$3,253.93	1987	$28,036.04	$11,173.71
1988	5,166,811	2,128,281	41.2%	593,193	138.6	$8,710.17	$3,587.84	1988	$28,075.65	$11,564.75
1989	5,500,540	2,273,628	41.3%	600,789	149.3	$9,155.53	$3,784.40	1989	$27,396.18	$11,324.11
1990	5,273,360	2,415,117	45.8%	615,421	162.8	$8,568.70	$3,924.33	1990	$23,514.04	$10,769.06
1991	5,043,773	2,423,418	48.0%	634,242	177.0	$7,952.44	$3,820.97	1991	$20,072.14	$9,644.21
1992	5,228,362	2,808,838	53.7%	653,062	190.1	$8,005.92	$4,301.03	1992	$18,814.63	$10,107.80
1993	5,469,575	3,028,086	55.4%	670,336	201.4	$8,159.45	$4,517.27	1993	$18,099.56	$10,020.35
1994	5,948,361	3,174,987	53.4%	684,414	211.0	$8,691.17	$4,638.99	1994	$18,401.89	$9,822.16
1995	6,107,568	3,326,846	54.5%	720,325	220.5	$8,478.91	$4,618.53	1995	$17,178.99	$9,357.55
1996	6,002,233	3,556,151	59.2%	737,764	228.2	$8,135.71	$4,820.17	1996	$15,927.45	$9,436.56
1997	5,864,218	3,587,566	61.2%	756,710	234.6	$7,749.62	$4,741.01	1997	$14,757.72	$9,028.36
1998	6,040,051	3,957,619	65.5%	765,922	242.1	$7,885.99	$5,167.13	1998	$14,552.17	$9,535.01
1999	6,053,323	4,446,975	73.5%	797,634	250.6	$7,589.10	$5,575.21	1999	$13,529.31	$9,939.09
2000	6,303,206	4,988,474	79.1%	802,156	260.8	$7,857.83	$6,218.83	2000	$13,460.51	$10,652.90
2001	7,288,933	5,424,197	74.4%	836,156	272.8	$8,717.19	$6,487.06	2001	$14,275.75	$10,623.57
2002	8,928,252	5,806,463	65.0%	853,187	285.6	$10,464.59	$6,805.62	2002	$16,369.32	$10,645.74
2003	10,142,575	5,622,377	55.4%	871,535	297.1	$11,637.60	$6,451.12	2003	$17,499.56	$9,700.61
2004	11,501,864	5,485,200	47.7%	884,974	310.1	$12,996.84	$6,198.15	2004	$18,724.16	$8,929.49
2005	11,577,418	4,872,760	42.1%	902,053	323.2	$12,834.52	$5,401.86	2005	$17,740.87	$7,466.86
2006	11,882,901	4,751,654	40.0%	921,904	336.2	$12,889.52	$5,154.17	2006	$17,127.96	$6,849.01
2007	11,138,531	4,735,895	42.5%	941,304	351.054	$11,833.09	$5,031.21	2007	$15,058.81	$6,402.72
2008	10,694,165	4,694,956	43.9%	954,224	364.065	$11,207.19	$4,920.18	2008	$13,752.58	$6,037.66
2009	10,710,006	4488871	41.9%	972,376	375.613	$11,014.26	$4,616.39	2009	$13,100.30	$5,490.71
2010	10,518,810	3,989,294	37.9%	985,375	388.436	$10,674.93	$4,048.50	2010	$12,277.56	$4,656.31
2011	10,228,502	4,108,924	40.2%	1,004,635	400.258	$10,181.31	$4,089.97	2011	$11,363.97	$4,565.06
2012	9,974,540	4,273,864	42.8%	1,026,788	414.924	$9,714.31	$4,162.36	2012	$10,459.48	$4,481.65
2013	9,721,579	4,296,088	44.2%	1,045,910	425.134	$9,294.85	$4,107.51	2013	$9,767.49	$4,316.38
2014	9,595,905	4,446,477	46.3%	1,065,000	435.292	$9,010.24	$4,175.10	2014	$9,247.45	$4,285.01
2015	9,302,321	4,620,816	49.7%	1,085,000	446.752	$8,573.57	$4,258.82	2015	$8,573.57	$4,258.82

"Direct Premiums Written" is the amount of money that insurers collected in premiums from doctors during that year. "Direct Losses Paid" is what insurers actually paid out that year to people who were injured – all claims, jury awards and settlements – as well as what insurance companies pay their own lawyers to fight claims. Sources: Premiums and Losses from Special Compilation of Annual Statement data by A. M. Best & Co.; Number of total doctors from US Census Bureau; 1976-79, 1988, 1991 and 2015 estimated as straight line growth based on recent observed data; Medical Care Inflation Index: Bureau of Labor Statistics.

Appendix B – Data Adjusted by Urban CPI Index

Year	Direct Premiums Written (thousands)	Direct Losses Paid (thousands)	Loss Ratio	Number Doctors in USA	All Urban Consumers Inflation (CPI)	Direct Premiums Written per doctor	Direct Losses Paid per doctor	Year	Direct Premiums Written per doctor **2015 Dollars**	Direct Losses Paid per doctor **2015 Dollars**
1975	865,208	190,867	22.1%	393,742	53.8	$2,197.40	$484.75	1975	$9,680.68	$2,135.58
1976	1,187,978	188,545	15.9%	408,529	56.9	$2,907.94	$461.52	1976	$12,113.03	$1,922.47
1977	1,423,091	248,969	17.5%	423,317	60.6	$3,361.76	$588.14	1977	$13,148.43	$2,300.31
1978	1,412,555	294,456	20.8%	438,104	65.2	$3,224.25	$672.11	1978	$11,720.88	$2,443.29
1979	1,405,991	391,800	27.9%	452,892	72.6	$3,104.47	$865.11	1979	$10,135.16	$2,824.31
1980	1,493,543	521,849	34.9%	467,679	82.4	$3,193.52	$1,115.83	1980	$9,185.91	$3,209.59
1981	1,616,470	665,570	41.2%	485,123	90.9	$3,332.08	$1,371.96	1981	$8,688.23	$3,577.32
1982	1,815,056	847,543	46.7%	501,958	96.5	$3,615.95	$1,688.47	1982	$8,881.27	$4,147.12
1983	2,033,911	1,079,862	53.1%	519,546	99.6	$3,914.79	$2,078.47	1983	$9,315.97	$4,946.12
1984	2,282,590	1,197,979	52.5%	536,986	103.9	$4,250.74	$2,230.93	1984	$9,696.81	$5,089.21
1985	3,407,177	1,556,300	45.7%	552,716	107.6	$6,164.43	$2,815.73	1985	$13,578.75	$6,202.38
1986	4,335,863	1,709,883	39.4%	569,160	109.6	$7,618.00	$3,004.22	1986	$16,474.42	$6,496.82
1987	4,781,084	1,905,491	39.9%	585,597	113.6	$8,164.46	$3,253.93	1987	$17,034.47	$6,789.05
1988	5,166,811	2,128,281	41.2%	593,193	118.3	$8,710.17	$3,587.84	1988	$17,451.04	$7,188.32
1989	5,500,540	2,273,628	41.3%	600,789	124.0	$9,155.53	$3,784.40	1989	$17,500.13	$7,233.61
1990	5,273,360	2,415,117	45.8%	615,421	130.7	$8,568.70	$3,924.33	1990	$15,538.86	$7,116.55
1991	5,043,773	2,423,418	48.0%	634,242	136.2	$7,952.44	$3,820.97	1991	$13,838.94	$6,649.30
1992	5,228,362	2,808,838	53.7%	653,062	140.3	$8,005.92	$4,301.03	1992	$13,524.87	$7,265.98
1993	5,469,575	3,028,086	55.4%	670,336	144.5	$8,159.45	$4,517.27	1993	$13,383.59	$7,409.47
1994	5,948,361	3,174,987	53.4%	684,414	148.2	$8,691.17	$4,638.99	1994	$13,899.84	$7,419.15
1995	6,107,568	3,326,846	54.5%	720,325	152.4	$8,478.91	$4,618.53	1995	$13,186.65	$7,182.88
1996	6,002,233	3,556,151	59.2%	737,764	156.9	$8,135.71	$4,820.17	1996	$12,290.00	$7,281.47
1997	5,864,218	3,587,566	61.2%	756,710	160.5	$7,749.62	$4,741.01	1997	$11,444.19	$7,001.24
1998	6,040,051	3,957,619	65.5%	765,922	163.0	$7,885.99	$5,167.13	1998	$11,466.95	$7,513.48
1999	6,053,323	4,446,975	73.5%	797,634	166.6	$7,589.10	$5,575.21	1999	$10,796.79	$7,931.69
2000	6,303,206	4,988,474	79.1%	802,156	172.2	$7,857.83	$6,218.83	2000	$10,815.56	$8,559.63
2001	7,288,933	5,424,197	74.4%	836,156	177.1	$8,717.19	$6,487.06	2001	$11,666.42	$8,681.79
2002	8,928,252	5,806,463	65.0%	853,187	179.9	$10,464.59	$6,805.62	2002	$13,787.02	$8,966.35
2003	10,142,575	5,622,377	55.4%	871,535	184.0	$11,637.60	$6,451.12	2003	$14,990.81	$8,309.92
2004	11,501,864	5,485,200	47.7%	884,974	188.9	$12,996.84	$6,198.15	2004	$16,307.42	$7,776.95
2005	11,577,418	4,872,760	42.1%	902,053	195.3	$12,834.52	$5,401.86	2005	$15,576.03	$6,555.72
2006	11,882,901	4,751,654	40.0%	921,904	201.6	$12,889.52	$5,154.17	2006	$15,153.95	$6,059.66
2007	11,138,531	4,735,895	42.5%	941,304	207.342	$11,833.09	$5,031.21	2007	$13,526.65	$5,751.28
2008	10,694,165	4,694,956	43.9%	954,224	215.303	$11,207.19	$4,920.18	2008	$12,337.47	$5,416.40
2009	10,710,006	4488871	41.9%	972,376	214.537	$11,014.26	$4,616.39	2009	$12,168.38	$5,100.12
2010	10,518,810	3,989,294	37.9%	985,375	218.056	$10,674.93	$4,048.50	2010	$11,603.17	$4,400.54
2011	10,228,502	4,108,924	40.2%	1,004,635	224.939	$10,181.31	$4,089.97	2011	$10,727.99	$4,309.58
2012	9,974,540	4,273,864	42.8%	1,026,788	229.594	$9,714.31	$4,162.36	2012	$10,028.39	$4,296.94
2013	9,721,579	4,296,088	44.2%	1,045,910	232.957	$9,294.85	$4,107.51	2013	$9,456.84	$4,179.10
2014	9,595,905	4,446,477	46.3%	1,065,000	236.736	$9,010.24	$4,175.10	2014	$9,020.93	$4,180.05
2015	9,302,321	4,620,816	49.7%	1,085,000	237.017	$8,573.57	$4,258.82	2015	$8,573.57	$4,258.82

"Direct Premiums Written" is the amount of money that insurers collected in premiums from doctors during that year. "Direct Losses Paid" is what insurers actually paid out that year to people who were injured – all claims, jury awards and settlements – as well as what insurance companies pay their own lawyers to fight claims. Sources: Premiums and Losses from Special compilation of Annual Statement data by A. M. Best & Co.; Number of total doctors from US Census Bureau; 1976-79, 1988, 1991 and 2015 estimated as straight line growth based on recent observed data; Urban Consumers Inflation Index: Bureau of Labor Statistics.