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## NEWS BACKGROUNDER

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### GAO Findings Consistent with Earlier Investigations: No Crisis

On August 29, 2003 – the Friday before Labor Day weekend – the General Accounting Office report *Medical Malpractice: Implications of Rising Premiums on Access to Health Care* was released to the public. The report had been requested by Republicans.

The GAO report examined claims by the American Medical Association (AMA) and state medical societies that a widespread health care access “crisis” exists as a result of doctors’ medical malpractice insurance problems. GAO found these claims to be false or widely exaggerated, and to the extent there are a few access problems, many other explanations can be established. (The AMA labels 19 states as so-called “crisis” states.)

GAO examined five “crisis” states as defined by the American Medical Association – Florida, Mississippi, Nevada, Pennsylvania and West Virginia. According to GAO, these states were picked because they were “among the most visible and often-cited examples of ‘crisis’ states by AMA and other provider groups” and therefore findings with regard to these five states provide “relevant and important insight into the overall problem.” (p. 38). On the basis of this examination, GAO found that doctors’ groups have misled, fabricated evidence, or, at the very least, wildly overstated their case about how these problems have limited access to health care.

After receiving a draft of the GAO report, the AMA asked the GAO to “withhold release of the report” and tried to convince GAO to modify its findings. (p. 38). GAO came back and strongly reaffirmed its findings. This should not have surprised anyone. GAO’s findings are consistent with long-standing reports by researchers within many so-called “crisis” states, which have disputed allegations of a “mass exodus” of doctors from those states.

The following are findings by government agencies, independent researchers, reporters or even medical societies themselves – when forced to testify under oath – that confirm GAO’s conclusions in *Medical Malpractice: Implications of Rising Premiums on Access to Health Care*:

## AMA “CRISIS” STATES NOT EXAMINED BY GAO. FINDINGS: NO CRISIS

**Connecticut:** In 2001, 781 OB-GYNs were licensed to practice in Connecticut. In 2003, the number had increased to 819. “For neurosurgeons, the trend is the same: 96 neurosurgeons were licensed to practice in 2001, 108 in 2003.” Jane Gordon, “Doctors Upset Over Malpractice. Patients Are, Too,” *New York Times*, March 23, 2003.

**Kentucky:** “[T]he number of doctors per person in Kentucky has increased faster than in the rest of the nation since the early 1980s.” Gideon Gil, “2003 Kentucky General Assembly; Study: Jury Award Limits Wouldn’t Cut Doctors’ Premiums,” *Courier-Journal* (Louisville, KY), February 25, 2003.

**New York:** “New York has more specialists, including obstetricians, per capita than California, a state that is the ‘gold standard’ for limiting recovery by injured victims of malpractice in the name of tort reform. Furthermore, the number of new physicians being licensed by the state is increasing. . . . New York ranks second in the nation in surgical specialists, which are most likely to be sued, and fourth in the nation in the number of OB/GYNs per capita, well ahead of California (ranked 19th and 17th in surgical specialists and OB/GYNs per capita, respectively). NYPIRG et al., *First Do No Harm II: A Consumer Response to the Medical Lobby’s Campaign to Limit the Legal Rights of Injured Patients* (April 2003).

**North Carolina:** Doctors are not fleeing North Carolina. Instead, the state has seen a 41 percent increase in the number of physicians since 1992. Sarah Avery, “Doctors’ Need for Bill Challenged,” *News Observer* (Raleigh), April 8, 2003.

## AMA “CRISIS” STATES THAT *WERE* EXAMINED BY GAO. FINDINGS: NO CRISIS

The following additional evidence confirms GAO’s findings in states that it did examine:

**Florida.** “More doctors are licensed in Florida than five years ago, and applications to practice medicine in the state are up. Hospital emergency rooms or trauma centers are not closing in Florida due to rising medical malpractice premiums. . . . [T]he state’s primary medical malpractice insurer . . . says its Florida profits are healthy and acknowledges a \$500,000 ‘endorsement’ relationship with the Florida Medical Association, so the FMA recommends the company as its favored carrier. No rise in frivolous medical malpractice lawsuits, or general explosion of medical malpractice lawsuits, is supported by testimony. And Florida’s insurance regulators depend on the honesty of insurers and their accountants for key information on which medical malpractice rate increases are based. That was some of the information that emerged Monday when Senate Judiciary Chairman Alex Villalobos, R-Miami, asked witnesses . . . to raise their right hands and ‘swear to tell the truth and nothing but the truth.’” Diane Hirth & Bill Cotterell, “Senate experts dispute ‘myths’; Malpractice Debate,” *Bradenton Herald*, July 15, 2003. See also, e.g., Paige St. John, “Testimony Reveals Malpractice Myths,” *Florida Today*, July 15, 2003; Mark Hollis & Greg Groeller, “Insurer: No Need for Rate Reform,” *Orlando Sentinel*, July 15, 2003; Jim Ash, “Testimony Undercuts Insurance Crisis Cry,” *Palm Beach Post*, July 15, 2003; Mike Salinero, “Surprise Follows Taking of Oaths,” *Tampa Tribune*, July 15, 2003.

**Mississippi:** “Claims that doctors are leaving the state en masse aren’t supported by data from the state Board of Medical Licensure, or even information provided reluctantly by the

state Medical Association. . . . Medical groups have claimed doctors are fleeing Mississippi, relocating to states with more stable legal climates. So far, the numbers don't bear that out. In fact, the state has gained 564 doctors over the past five years. The state Medical Association has said the growth in doctors lags behind the state's population growth. But while Mississippi still ranks last in the nation in the number of doctors per capita, it has made dramatic gains since 1995. Only four states have grown faster in physician population: Alabama, Alaska, Arkansas and South Dakota." Joey Bunch, "Crisis or PR campaign? Pro and Con Forces Seek to Win Hearts and Minds of Mississippians," *Biloxi Sun-Herald*, August 11, 2002.

**Nevada:** "Despite warnings that doctors were leaving or closing their practices due to the rising cost of medical malpractice insurance, the state board that oversees medical licenses says there are more physicians with active licenses now than there were at the end of 2001, when the medical malpractice crisis began. . . . Larry Lessly, executive secretary of the state Board of Medical Examiners, reported Thursday there were 4,375 active licenses for physicians as of this week, compared with 4,347 in December 2001. However, the current number of doctors was below that in December 2002, when 4,537 physicians had active Nevada licenses. Despite the decline from that number, Lessly said there was not a mass exodus of doctors from Nevada, as many claimed. He said the number of physicians has remained about constant." Cy Ryan, "Medical Board Says No Doctor Exodus: State Board Chief Says No Sign of Malpractice Crisis," *Las Vegas Sun*, Sept. 5, 2003.

"[S]tate researchers found fewer doctors leaving Nevada due to rising insurance premiums than doctors' advocates reported. Thirty-five of the 4,700 medical doctors in Nevada closed their practices, 12 retired and six stopped practicing obstetrics, according to a study by the state legislative research division. . . . 'I was shocked to read the statistics,' Assembly Majority Leader Barbara Buckley, D-Las Vegas, told the *Las Vegas Review-Journal*. 'Certainly the impression we've been given was inaccurate.'" "State Study Says Fewer Doctors Leaving Nevada than Reported," *Associated Press*, February 28, 2003.

**West Virginia:** "Despite claims from the West Virginia Medical Association that the lack of 'tort reform' had caused a mass exodus of doctors from the state, the number of doctors in West Virginia had increased yearly, with the state seeing a 14.3 percent increase in its number of doctors between 1990 and 2000. This increase is at a rate about 20 times greater than the population." Martha Leonard, "State Has Seen Sharp Increase in Number of Doctors," *Sunday Gazette Mail*, February 25, 2001.

The Medical Association in West Virginia made much of the fact that Wheeling lost all three of its neurosurgeons in 2001. But "two of those neurosurgeons were near the top of the list for the number of malpractice suits brought against them. In all but one of the 19 lawsuits brought against those two doctors, the insurance company representing them settled out of court, apparently paying damages. The third neurosurgeon left town shortly after being sued for malpractice. That neurosurgeon admitted drilling into the wrong side of his patient's head during an operation, possibly leaving her permanently scarred. The same neurosurgeon lost a jury trial for \$1.8 million for botching a surgery that caused multiple cerebral aneurysms and cardiac arrest. Is Wheeling really worse off for losing these doctors?" "Malpractice Association distorts facts," *Charleston Gazette*, March 1, 2001.