



CENTER FOR JUSTICE & DEMOCRACY
185 WEST BROADWAY
NEW YORK, NY 10013
TEL: 212.431.2882
centerjd@centerjd.org
<http://centerjd.org>

EXPOSING MEDICAL MYTHS: “CAPS” AND PHYSICIAN SUPPLY

EXECUTIVE SUMMARY

- The suggestion that doctors might leave California or abandon certain specialties if the \$250,000 cap on non-economic damages were repealed, let alone simply increased for inflation, has no support in the academic literature, government studies, or the actual experiences of other states.
- There are years of studies showing no correlation between where physicians decide to practice and the malpractice environment, including malpractice insurance rates and state tort law.
- No state in the nation has as much protection for doctors against excessive rate hikes and price-gouging by insurers as does California. But even in states without this strong insurance regulatory protection, the evidence clearly shows that that physician supply and the malpractice environment – whether the issue is litigation or insurance - are not linked.
- In Texas, the 2003 enactment of caps on compensation for injured patients has had no effect on physician supply. In fact, according to the latest academic research, the rate of increase in Texas of physicians engaged in direct patient care was lower after caps passed, and two specialties (OB/GYN and orthopedic surgery) grew more quickly before caps were enacted than after. Moreover, Texas is currently facing an urgent doctor shortage, likely due to the large number of uninsured in the state.
- New York State, which does not cap compensation for injured patients, has among the highest number of doctors per capita in the nation, both generally and for high-risk

specialties like OB/GYN's and surgery. The main reasons physicians leave New York are: proximity to family; inadequate salary; and visa issues. The cost of malpractice insurance is practically dead last on the list of possible reasons that any physician might leave New York State.

- In 2003, the U.S. General Accounting Office examined allegations by the American Medical Association and other doctor groups, that “access to care” problems were pervasive and related to liability concerns. The GAO found that these allegations were “inaccurate” and “not substantiated,” and that to the extent there are a few access problems, many other explanations could be established “unrelated to malpractice.”
- A 2009 report showed more than twice the number of doctors per capita in White Plains, NY than in Bakersfield, CA. “Quality of life” issues explained this disparity. Lifestyle considerations are typically the most important factors for determining a physician’s choice of specialty, as well.
- Research shows that physician shortages correlate to stagnating local economies and decreasing populations in those regions, not to lawsuits or insurance rates. Indeed, Texas researchers recently found, as have many others, that “Physician supply appears to be primarily driven by factors other than liability risk, including population trends, location of the physician’s residency, job opportunities within the physician’s specialty, lifestyle choices, and demand for medical services, including the extent to which the population is insured.”