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HIGHLY REGARDED NEW STUDIES OBLITERATE COMMON MYTHS ABOUT MEDICAL MALPRACTICE

Two studies from the March 2008 *Journal of Empirical Legal Studies* find:

1. The supply of OB/GYNs in a state has no relationship to either doctors' malpractice premiums or a state's liability laws.¹

"[M]alpractice insurance premium levels and the presence of liability-limiting tort reforms in a state do not significantly affect the supply of OB/GYNs at the state level. These results are at odds with assertions of an exodus of OB/GYNs from states with high and rapidly rising insurance premiums. They also undercut suggestions that caps on noneconomic damages and other tort reforms help states attract and retain high-risk specialists by providing relatively good insulation from malpractice judgments."

"Our results suggest that most OB/GYNs do not respond to liability risk by relocating out of state or discontinuing their practice, and that tort reforms such as caps on noneconomic damages do not help states attract and retain high-risk specialties."

"Overall, the results provide no evidence that liability pressure, as measure by malpractice premiums, is associated with the supply of OB/GYNs per capita in a state."

2. Patients are less likely to file malpractice claims in underserved areas, and less likely if their medical procedures are considered risky.²

"Two factors negatively associated with claiming are 1. The prevalence of risky medical diagnoses [obstetric/gynecology procedures, cardiac procedures, and orthopedic procedures fall into this risk group] and 2. physicians per capita."

"[T]he risk factor was negatively associated with high claim rates, perhaps suggesting an association with quality of care and malpractice claims."

"The negative association between the rates of high risk procedures, and the rates of malpractice claims, was true for both inpatient and outpatient claims."

¹ Y. Tony Yang, David M. Studdert, S.V. Subramanian, Michelle M. Mello, "A Longitudinal Analysis of the Impact of Liability Pressure on the Supply of Obstetrician-Gynecologists," *Journal of Empirical Legal Studies*, Vol. 5, Issue 1, 21-53 (March 2008).

² Kevin D. Hart, Philip G. Peters, "Cultures of Claiming: Local Variation in Malpractice Claim Frequency," *Journal of Empirical Legal Studies*, Vol. 5, Issue 1, 77-107 (March 2008)(analyzed annual claims from 62 New York counties over a 14-year period).