



Buyers Up • Congress Watch • Critical Mass • Global Trade Watch • Health Research Group • Litigation Group
Joan Claybrook, President

NEWS RELEASE

For Immediate Release:
July 7, 2003

Contact: Jackson Williams (202) 454-5135
Dennis Jaffe (202) 454-5136

New 2002 Government Data Dispute Malpractice Lawsuit “Crisis”

Malpractice Payouts Declined as Insurance Premiums Spiked; 5.2 Percent of Doctors Are Responsible for 55 Percent of Malpractice Payouts

WASHINGTON, D.C. – New government data show that both the number and amount of payments to medical malpractice victims declined in 2002, casting further doubt on the assertion that lawsuits are responsible for doctors’ insurance premium increases.

The number of medical malpractice payouts decreased by 8.2 percent, from 16,669 in 2001 to 15,304 in 2002, according to a Public Citizen analysis of new National Practitioner Data Bank (NPDB) records for last year. The total damages paid to victims declined by 6.9 percent, from \$4.5 billion in 2001 to \$4.2 billion in 2002, the analysis found. When adjusted for medical services inflation in 2002 the decline was even more dramatic – 11.2 percent. (See Figure 1 in the attachment.) The cost of medical care typically represents the greatest cost in a medical malpractice payout.

The number of awards greater than \$1 million decreased by 11.5 percent, from 454 in 2001 to 402 in 2002. The data bank, a U.S. government agency, collects reports of every judgment or settlement paid to malpractice victims throughout the country by insurance companies on behalf of doctors.

The U.S. Senate is expected to vote Wednesday on legislation that would significantly limit patients’ ability to hold medical providers accountable for negligence. The bill, S. 11, would arbitrarily cap the amount of non-economic damages available to malpractice victims at \$250,000, which would penalize those most harmed by doctors and other health care providers.

The bill’s proponents claim that malpractice insurance rates are rising because of malpractice awards to patients, but all available data show that the legal system has no impact on insurance rates. Rather, insurance rates are tied to investment returns from the bond and stock markets and to the competitive economics of the insurance cycle.

“It’s clear from these numbers that the insurance premium increases over the past year are not tied to lawsuits,” said Joan Claybrook, president of Public Citizen. “The only thing that correlates with the premium increases is the decline in malpractice insurers’ investment income.”

The mean payment per malpractice victim increased by just 1.4 percent in 2002, lagging behind the increase in health care inflation of 4.8 percent during that year for an inflation-adjusted drop of 3.3 percent. Both consumer advocates and the insurance industry have pointed to health care inflation as a major factor in pushing up malpractice awards in recent years.

“Given increasing health care costs, the decline in damages awarded means that malpractice payments are becoming an even more miniscule portion of the nation’s overall health care costs,” Claybrook said. In 2000, the total premiums paid for malpractice insurance constituted 0.56 percent of all health care expenditures.

According to Public Citizen’s analysis of NPDB data, a small percent of doctors are responsible for more than half of all malpractice payments, yet disciplinary actions (license suspension or revocation, or a limit on clinical privileges) for these doctors have been few and far between. The data showed that:

- Just 5.2 percent of doctors made two or more malpractice payouts and were responsible for 55 percent of all payouts between 1990 and 2002. Just 1.1 percent of all doctors have made three or more malpractice payouts, amounting to 30 percent of all malpractice payouts. (See Figure 2 in the attachment.)
- Only 10.7 percent (1,401 of 13,182) of all doctors who made three or more malpractice payouts have been disciplined. Only 16.9 percent (488 of 2,896) of those doctors who made five or more malpractice payouts have been disciplined. (See Figure 3.)

“The American Medical Association says that 100 doctors were put out of business last year in West Virginia because of rising medical malpractice insurance rates, yet the damages paid out in West Virginia dropped by 31 percent during the same period. If that \$15 million in savings didn’t help, how would damage caps solve the problem?” Claybrook asked.

###

Public Citizen is a national, nonprofit consumer advocacy organization based in Washington, D.C. For more information, please visit www.citizen.org.

Figure 1
Medical Malpractice Payouts, 2001 to 2002

	Number of Payouts	Total Amount of Payouts	Total Payouts Adjusted for Medical CPI (in 2001 dollars)	Mean Payout	Mean Payout Adjusted for Medical CPI (in 2001 dollars)	Payouts Over \$1 Million
2001	16,669	\$4,472,090,650	\$4,472,090,650	\$268,288	\$268,288	454
2002	15,304	\$4,162,611,100	\$3,971,578,189	\$271,995	\$259,512	402
Change, 2001-2002	-8.2%	-6.9%	-11.2%	1.4%	-3.3%	-11.5%

Sources: National Practitioner Data Bank, Sept. 1, 1990 – Dec. 31, 2002.
Bureau of Labor Statistics – Medical Services CPI.

Figure 2
Number of Medical Malpractice Payouts to Patients and Amounts Paid 1990-2002

Number of Payouts Reports	Number of Doctors that Made Payouts	Percent/Total Doctors (736,264)*	Total Number of Payouts	Total Amount of Payouts	Percent of Total Number of Payouts
All	117,411	15.9%	181,073	\$38,340,044,350	100.0%
1	81,487	11.1%	81,487	\$38,340,044,350	44.9%
2 or more	35,924	4.8%	99,586	\$21,422,276,650	55.0%
3 or more	13,182	1.7%	54,275	\$11,601,619,950	30.0%
4 or more	5,838	0.8%	32,354	\$6,875,166,500	5.5%
5 or more	2,896	0.4%	20,657	\$4,329,621,350	0.1%

*Based on national population of doctors as calculated by the American Medical Association for 1997, the closest year for which such data is available to the mid-point of the time period studied.

Source: National Practitioner Data Bank, Sept. 1, 1990 – Dec. 31, 2002.

Figure 3
Number of Doctors with Two or More Medical Malpractice Payouts Who Have Been Disciplined (Reportable Licensure Actions) 1990-2002

Number of Payment Reports	Number of Doctors that Made Payouts	Number of Doctors with One or More Reportable Licensure Actions	Percent of Doctors with One or More Reportable Licensure Actions
2 or More	35,924	2,759	7.7%
3 or More	13,182	1,401	10.7%
4 or More	5,838	817	14.0%
5 or More	2,896	488	16.9%
10 or More	336	111	33.0%

Source: National Practitioner Data Bank, Sept. 1, 1990 – Dec. 31, 2002.