

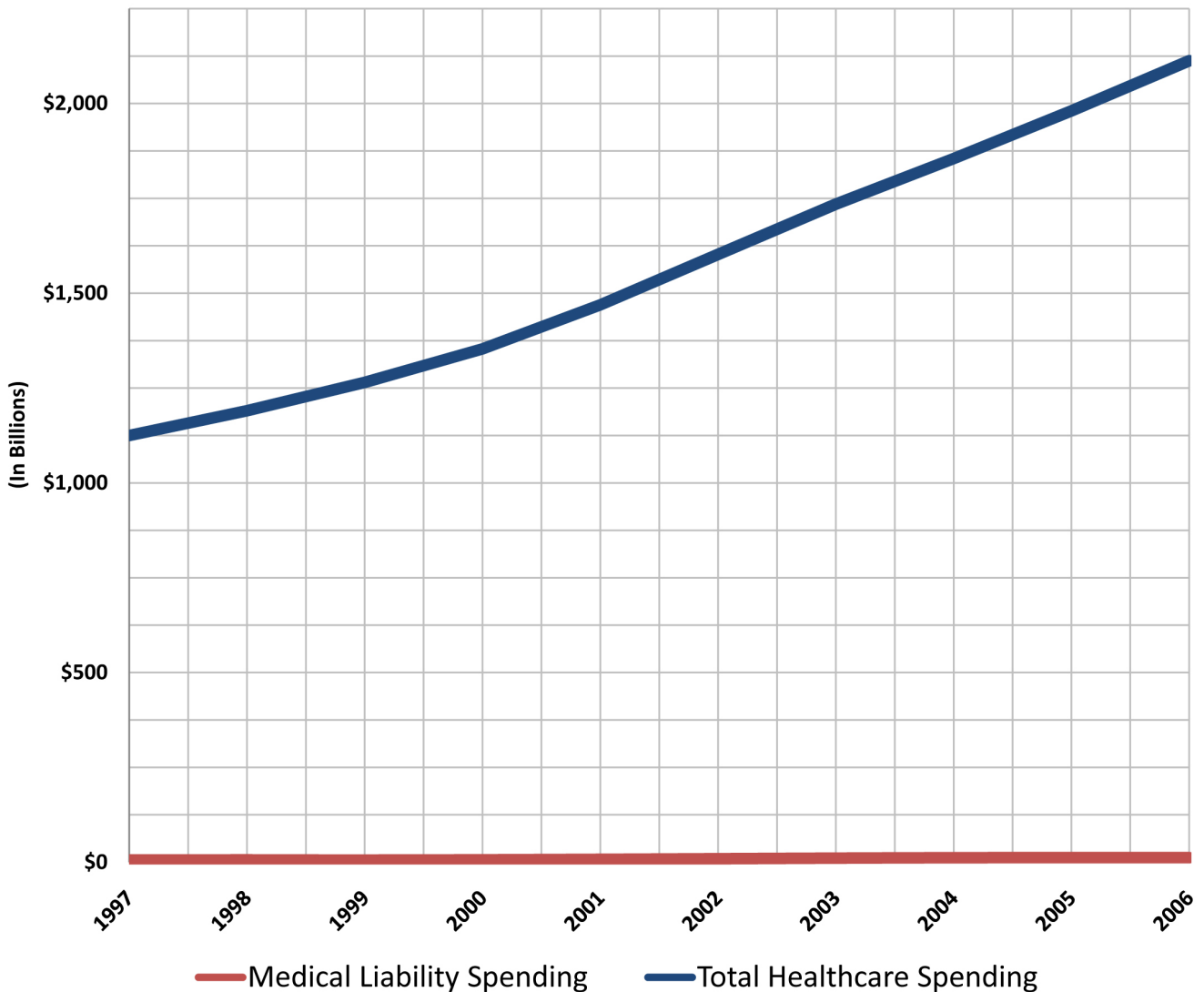


July 1, 2009

The 0.6 Percent Bogeyman

Medical Malpractice Payments Fall to All-Time Low
as Health Care Costs Continue to Rise

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Acknowledgments

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Introduction

If you spend an hour reading this report, chances are that five to 11 Americans will die from preventable medical errors by the time you finish. Chances also are better than 50-50 that not a single malpractice payment will be made as a result of any of these avoidable deaths.

Yet despite the shocking frequency of serious medical errors and the surprising infrequency with which the victims or their families pursue redress in court, Congress commits far more attention to the mythical excess of lawsuits concerning medical negligence than to the negligence itself. In the current debate over health care reform, some are calling once again to restrict patients' legal remedies even though medical malpractice litigation has fallen to the lowest level on record.

The number of malpractice payments in 2008 was the lowest since the creation of the federal government's National Practitioner Data Bank, which has tracked medical malpractice payments since 1990. This was not an aberration. Last year was the third consecutive year in which the number of medical malpractice payments sunk to an all-time low. The cumulative value of malpractice payments (as distinct from the number of payments) in 2008 was either the lowest or second-lowest on record, depending on how one adjusts for inflation.

Medical malpractice litigation's share of overall health care costs, which always has been minuscule, has fallen to less than 0.6 percent even under the most liberal definition. This figure encompasses insurance companies' overhead and profits, as well as their litigation costs and the sum of actual payments made to victims. Actual medical malpractice payments have fallen to less than 0.2 percent of all health costs – the lowest level on record.

State and federal policy makers should not take comfort in the declines in medical malpractice litigation. Rather than pointing to safer medical care, the reduction in payments almost certainly means that there are ever more malpractice victims not receiving compensation – and fewer incentives for doctors and nurses to reduce errors.

Despite the politically charged hysteria surrounding medical malpractice litigation, the percentage of malpractice victims who actually pursue damages is incredibly small.

The seminal 1999 Institute of Medicine (IOM) study, "To Err Is Human," estimated that 44,000 to 98,000 hospital patients are killed every year because of avoidable medical errors. Yet fewer than 15,000 malpractice payments were made that year. That means between three and seven times as many patients died due to avoidable errors in 1999 as the number of patients or families who received compensation. And that figure says nothing of the countless thousands of survivors who suffered serious but non-fatal injuries and received no compensation. The costs of caring for these injuries are often borne by American taxpayers rather than those responsible for the injuries.

The gap between the number of malpractice victims and the number who receive compensation likely has grown larger since then. There is no evidence that any meaningful improvement in medical safety has occurred in the decade following the IOM study. The IOM's patient safety recommendations have gone largely ignored. The federal Agency for Healthcare Research and Quality (AHRQ), the lead federal agency in charge of promoting safe health care, found in 2008 that hospitals' implementation of safety measures was declining. And agencies continue to report shockingly high rates of errors

that experts say should never occur, such as surgeries on the wrong limb or wrong patient.

A trendy proposal in the current Congress is to establish special administrative tribunals that would abolish patients' rights to a jury trial in court. Such tribunals would theoretically provide compensation to a greater percentage of victims of avoidable injuries in exchange for rules that would reduce payments for each incident. Similar proposals have been contemplated in the past, but lost favor once experts realized that the sheer prevalence of avoidable errors would render any such regime far

more expensive than the systems in place at the time. There is no reason to think that results would be different today.

The only politically viable and, indeed, humane approach to the malpractice crisis is to implement far-reaching, comprehensive measures to improve safety. The IOM's 1999 study called for reducing patient deaths by 50 percent in five years. Little if any progress has been made toward accomplishing that goal. Ten years later, Congress should use its leverage to put the country on course to meeting the IOM's target by 2015.

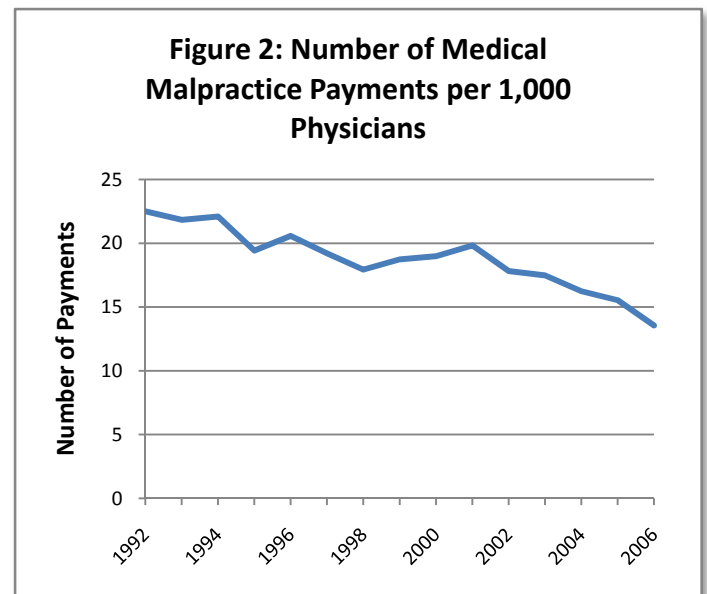
I. Medical Malpractice Payments Fell to New Lows in 2008

Frequency of Payments Was Lowest on Record in 2008

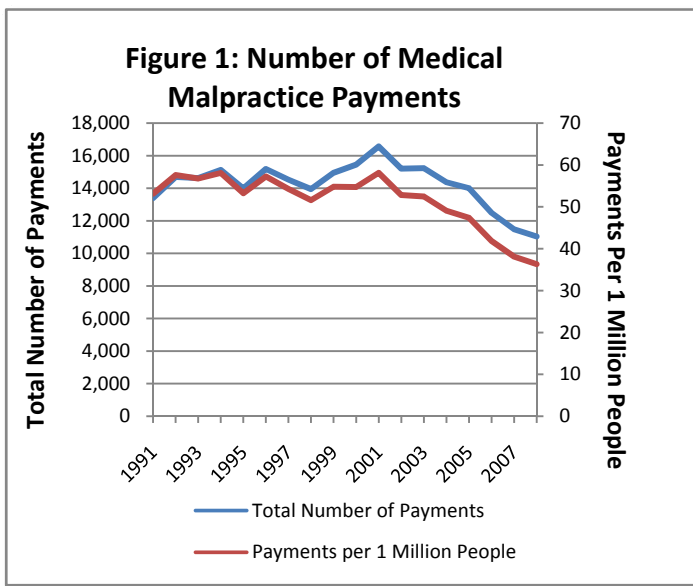
For the third consecutive year, 2008 saw the fewest medical malpractice payments on behalf of doctors since the creation of the federal government’s National Practitioner Data Bank, an information clearinghouse that began collecting comprehensive data on medical malpractice payments on behalf of health care professionals in 1990.^a

The number of payments per capita was even lower in 2008 compared to historical norms. The drop off has been steep. Between 1991 and 2003, the number of payments ranged from 51 to 59 per million people. In 2008, there were 36 payments per million people, which is 30 to 38 percent lower than the results reported between from 1991 to 2003. [See Figure 1^b]

Because the number of physicians is growing faster than the population, the ratio of payments per physician was even lower compared to historical norms. The number of payments per physician, at a record low in 2008 for the fifth straight year, has fallen from 22.5 per 1,000 physicians in 1992 to 13.5 per 1,000 physicians in 2008. [See Figure 2]



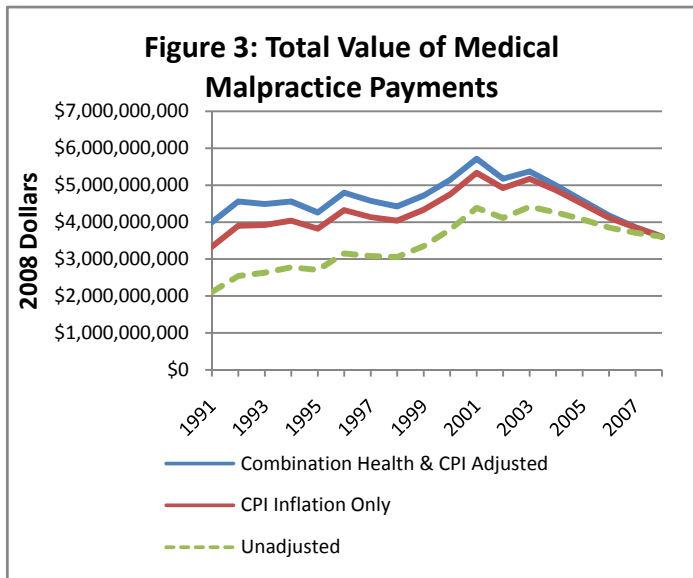
Source: National Practitioner Data Bank, U.S. Census Bureau, Statistical Abstract, "Physicians by Selected Activity" Table



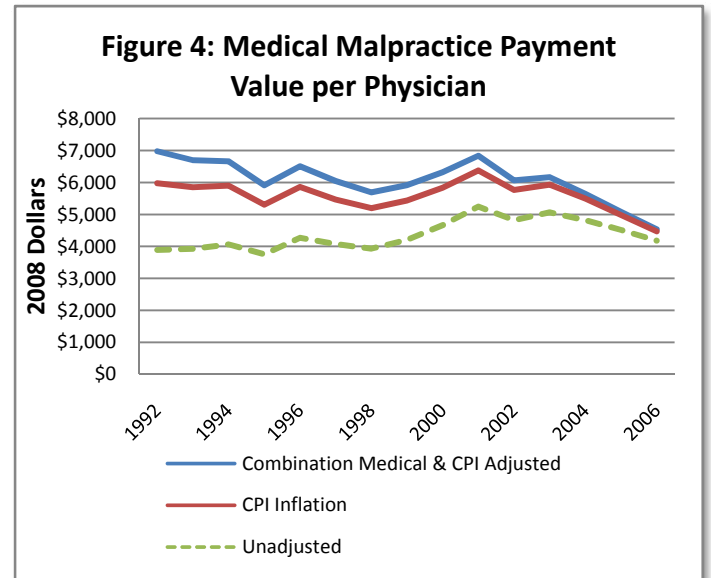
Source: National Practitioner Data Bank, U.S. Census Bureau

^a Although NPDB data collection began in the fourth quarter of 1990, 1991 was the first full calendar year for which statistics are available.

^b The underlying data for Figure 1 and other Figures in this report are available in the Appendix. Underlying data for the cover art is included in Table 11 in the Appendix.



Source: National Practitioner Data Bank, Bureau of Labor Statistics



Source: National Practitioner Data Bank, Bureau of Labor Statistics

Value of Medical Malpractice Payments Was at or Near All-Time Low in 2008

The inflation-adjusted amount of money paid on behalf of doctors for malpractice in 2008 was either the lowest or near the lowest on record, depending on the inflation index used. If payments are adjusted using a blend of the consumer price index (CPI) and the medical services index, the amount paid out in 2008 was the lowest since the government began collecting such data. ^c [See Figure 3]

If payments are adjusted solely using the CPI, the amount paid out in 2008 was the second-lowest on record. Even in unadjusted dollars, 2008 payments were the lowest since 1999. Since 1999, the cost of

^c A significant proportion of medical malpractice payments compensates patients for future medical costs. Although no study has determined the typical share of medical malpractice payments devoted to future medical costs, the Utah-Colorado Medical Practice Study (UCMPS) concluded that 53% of the costs of adverse incidents (*i.e.*, injuries suffered in hospitals) were for future health care costs. Adopting that figure, this report uses two methods of adjusting malpractice payments for inflation: 1) A 53%/47% blend of the medical services inflation index and the consumer price index (CPI), respectively; and 2) The CPI by itself.

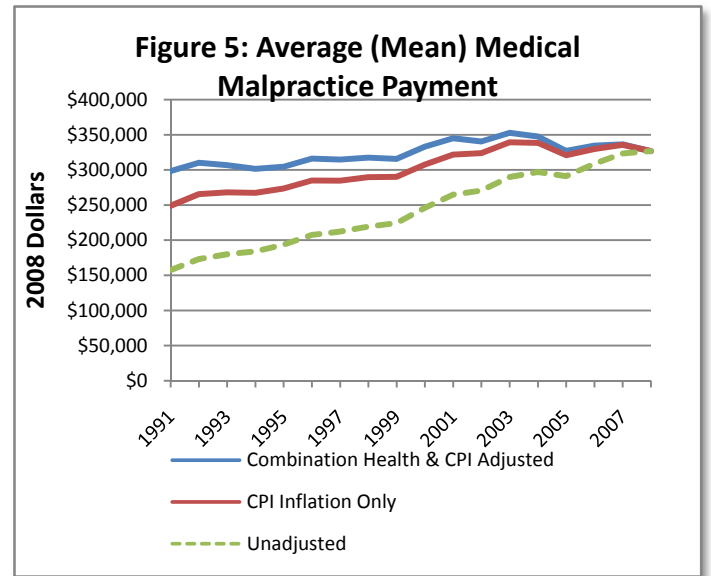
normal consumer goods has risen 29 percent and the cost of medical services more than 50 percent.

Because the number of physicians has increased during the time period studied, the inflation-adjusted amount paid per physician has declined more precipitously than total payouts. In fact, even the unadjusted amount paid out per physician was only 7 percent higher in 2008 than in 1992. [See Figure 4] Since then, the cost of consumer goods has increased 53 percent and the cost of medical services has more than doubled.

Perhaps the only measure by which medical malpractice payments have increased over the life of the National Practitioner Data Bank is in the average, or mean, amount per payment. Average payments adjusted using a blend of the consumer price index and medical services index were 9.4 percent higher in 2008 than in 1991. If solely the CPI is used to adjust the figures, average payments were 31.2 percent higher in 2008 than in 1992.

But payments have fallen in recent years even in this category. Average payments adjusted using a CPI-medical services index blend were the lowest in 2008 since 1999. If adjusted by using the CPI alone, average payments were in the lower in 2008 than in 2002. [See Figure 5]

The combination of fewer payments and increased or stable average payment amounts suggests a trend in which far fewer malpractice claims are brought, and those that remain are for the most serious injuries.



Source: National Practitioner Data Bank, Bureau of Labor Statistics

II. Malpractice Litigation Does Not Account for the Steep Rise in Health Care Costs

Medical malpractice litigation is a popular scapegoat for the ills of the American health system, even for the fact that so many people lack access to health care.

This recent exchange between Fox News pundits Bill O'Reilly and Glenn Beck was typical:

O'REILLY: So what's the Beck solution for the government to get health care costs under control, and they are out of control, and [serve] people who don't have any money?

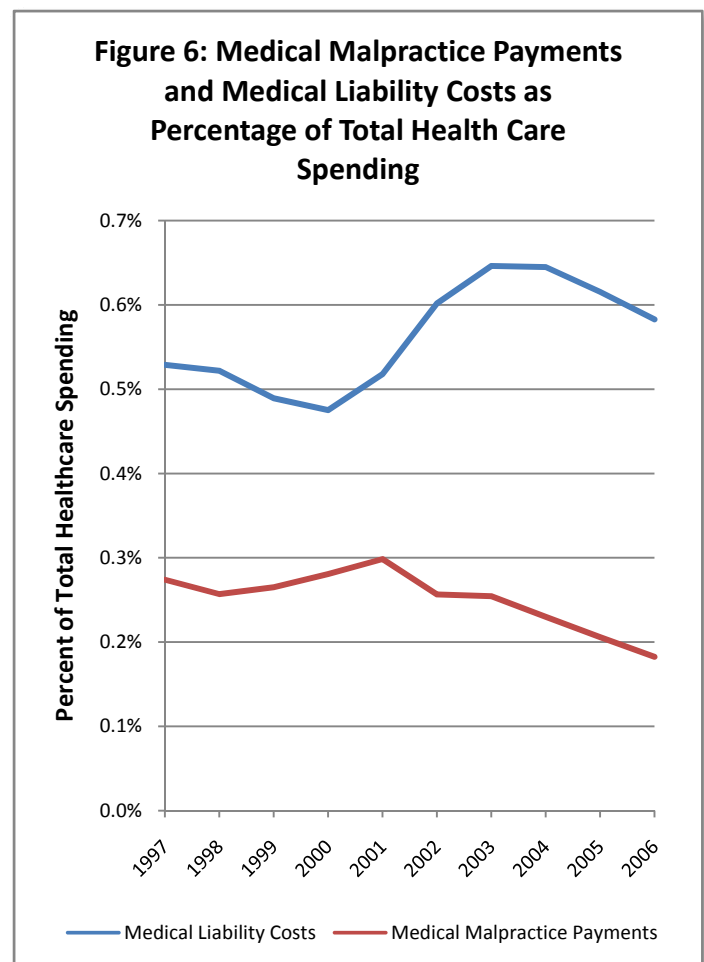
BECK: Two things. The first thing that we need to do is get tort reform. We need to be able to have some control.

O'REILLY: Okay, I agree with that of the – you got to control the suing of the doctors. That's correct. Yes.

BECK: Absolutely, that's correct. Absolutely out of control...¹

Despite this overheated rhetoric, the facts flatly contradict the argument that medical malpractice costs have much, if anything, to do with the rise in health care costs. Depending on how the cost is assessed, medical malpractice payments accounted for between 0.18 percent and 0.58 percent all health care costs in 2006, the most recent year for which all of the necessary data to make these comparisons are available. The higher figure is calculated by including the cost of all medical malpractice insurance premiums paid by doctors and hospitals. These premiums cover not only malpractice settlements, verdicts and the cost of

litigation, but also insurance companies' overhead and profits. Even using that broad definition, costs amount to only three-fifths of 1 percent of health costs. [See Figure 6]



Source: National Practitioner Data Bank, National Association of Insurance Commissioners, Centers for Medicare and Medicaid Studies

III. Most Injuries for Which Patients Receive Compensation Are Extremely Serious

Medical malpractice lawsuits are a favorite target of politicians aiming to stir up crowds or to inject strife into debates about health care. For example, former President George W. Bush made rhetoric about “junk lawsuits” and “the litigation culture” a centerpiece of his 2004 reelection campaign and continued to flog that theme throughout his administration.

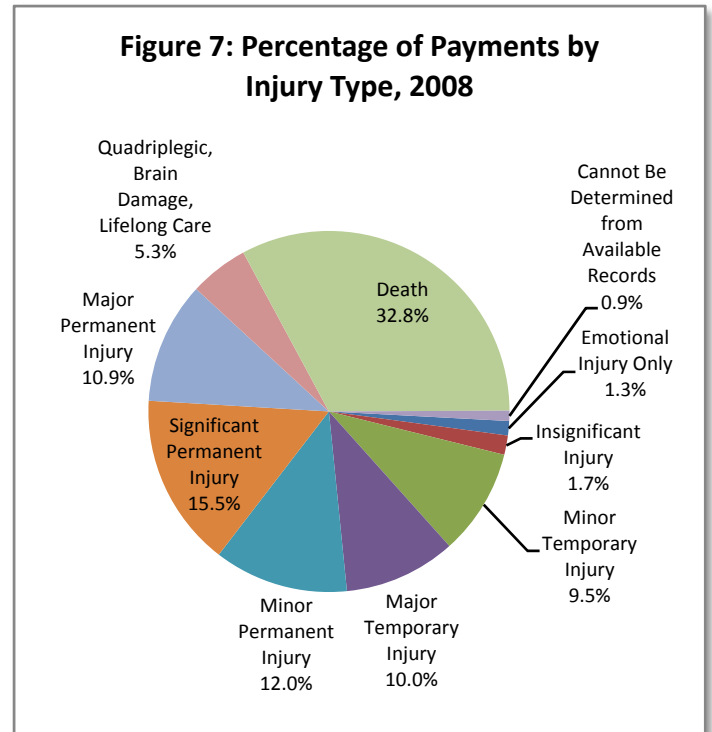
“I’m worried about frivolous lawsuits that are running up the cost of health care,” Bush said in 2007.

But even those who favor limiting patients’ rights, such as well-known Washington lawyer Victor Schwartz, acknowledge that frivolous medical malpractice lawsuits are uncommon. “There is no question that it is very rare that frivolous suits are brought against doctors. They are too expensive to bring,” Schwartz said in 2004, when the fury over medical malpractice litigation was at its peak.²

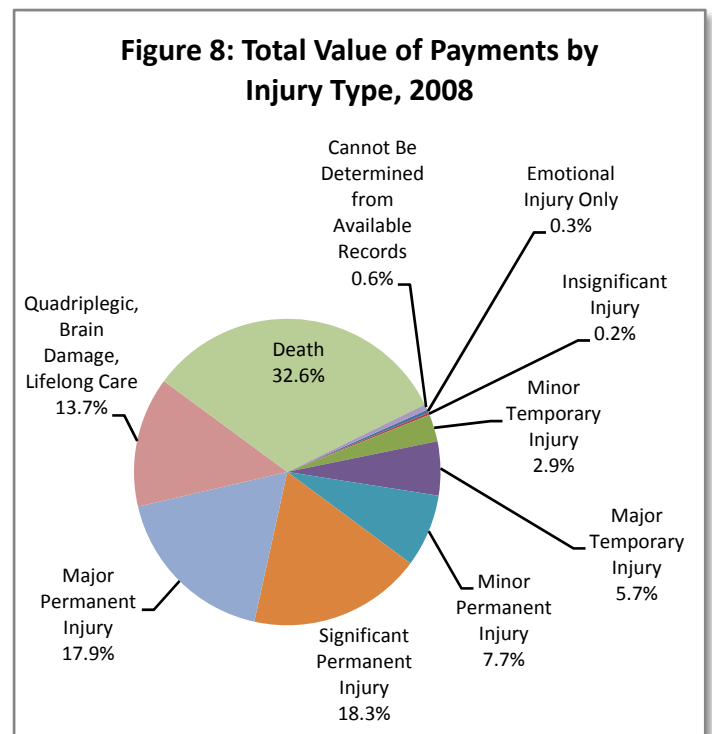
In fact, the data thoroughly contradict myths about a prevalence of medical malpractice payoffs for inconsequential harms. The vast majority of payments compensate victims or their families for injuries that no one would call frivolous.

Nearly two-thirds (65 percent) of medical malpractice payments in 2008 compensated for negligence resulting in “significant permanent injury,” “major permanent injury,” quadriplegia, brain damage or the need for lifelong care, or death. [See Figure 7]

More than four-fifths (83 percent) of the total value of malpractice payments last year compensated for these very serious consequences. “Insignificant injury” and “emotional injury only,” the two



Source: National Practitioner Data Bank

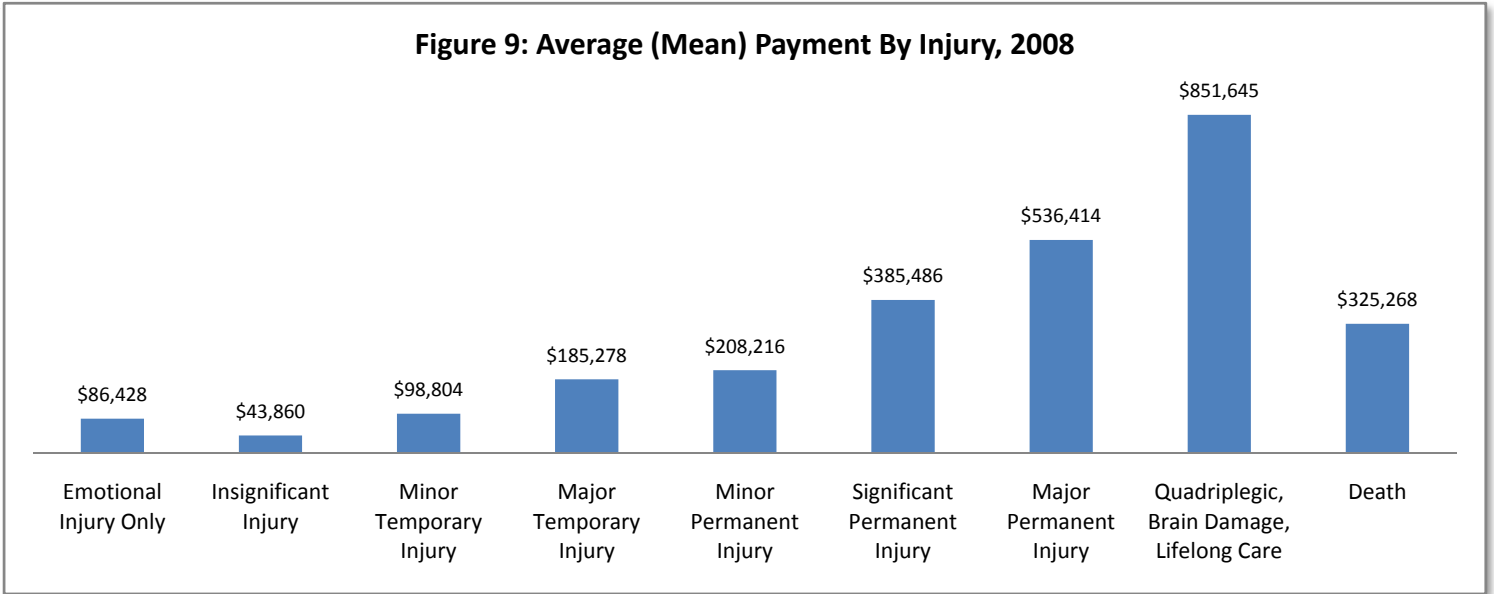


Source: National Practitioner Data Bank

ostensibly least serious injuries, accounted for between 0.2 percent and 0.3 percent of dollars paid in 2008. [See Figure 8]

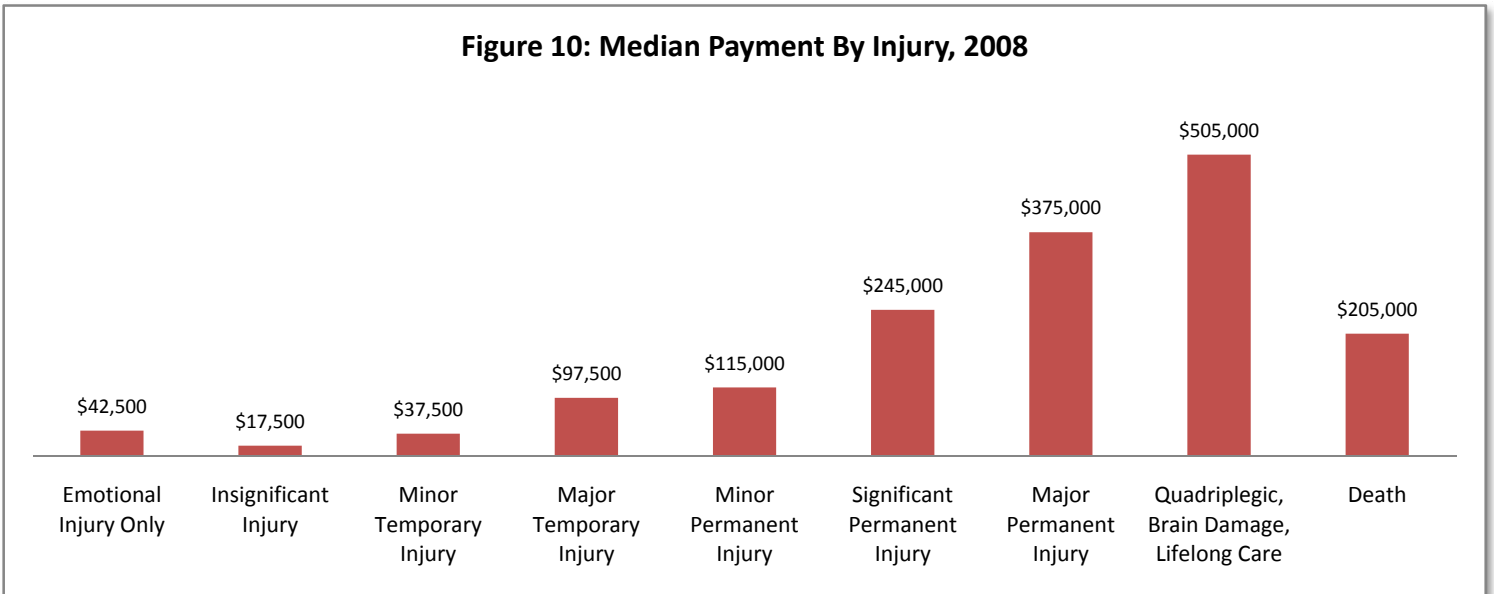
Not surprisingly, the four most serious categories posted the highest mean and median payments by significant margins. [See Figures 9 and 10]

Figure 9: Average (Mean) Payment By Injury, 2008



Source: National Practitioner Data Bank

Figure 10: Median Payment By Injury, 2008



Source: National Practitioner Data Bank

IV. Serious Medical Errors Are Several Times More Common than Lawsuits

Members of Congress and other policy makers should not be comforted by news that the incidence of medical malpractice payments has plummeted. Rather than indicating that hospitals are becoming safer, the decrease almost certainly points to a greater disparity between the number of patients injured in hospitals and the number who receive compensation. Studies in each decade since the 1970s have concluded that medical errors far outpace lawsuits.

Even when the number of medical malpractice payments was higher, they still went only to a small fraction of patients who suffered injuries from avoidable medical errors, several studies have shown.

The best-known such study was the Institute of Medicine's 1999 report, "To Err Is Human," which concluded that between 44,000 and 98,000 patients die each year because of avoidable errors. Fewer than 15,000 people received medical malpractice payments in 1999. This means that three to seven times as many patients died in 1999 due to faulty medical care as received medical malpractice payments. That disparity was doubtless greater in 2008, when 26 percent fewer people received medical malpractice payments.

The IOM report was based on two previous studies (The Harvard Medical Practice Study in New York and Harvard's Utah-Colorado Medical Practice Study, both of which are discussed below) that examined the prevalence of medical errors and, as ancillary inquiries, the incidence of medical malpractice litigation. Those studies and others reinforce the conclusions that medical errors are

shockingly prevalent and patients are only rarely compensated.

1. Amid a purported crisis in medical malpractice litigation in the 1970s, the California Hospital Association and California Medical Association commissioned a study to examine the prevalence of errors. Researchers found that one in 20 patients suffered injuries during their hospital stays and that one in six of these injuries resulted from malpractice. Worse, four out of five of the most serious injuries resulted from malpractice. This means that 24,000 patients in California alone were victims of malpractice in 1974.³ Therefore, at most one in ten victims filed suit, and only 40 percent of those who filed suit ultimately received compensation.⁴
2. A 1984 New York study in which nurses and doctors evaluated records of patients injured in hospitals found that one in 25 patients suffered injuries and that about one in four of these injuries were caused by malpractice. Thus, 27,000 New York patients suffered injuries due to malpractice in 1984. Only 3,800 medical malpractice claims were filed in New York that year.⁵
3. A similar study of medical care in Utah and Colorado in 1992 found that 2.9 percent of patients suffered an injury during care and that 29 percent of these patients were victims of malpractice.⁶

4. The Colorado-Utah data were used to analyze the prospective costs of establishing special tribunals that would theoretically compensate more patients who suffered adverse events in the course of care but would limit the amount of compensation received by each.

This analysis showed that a no-fault compensation system (compensating patients who suffer adverse events regardless of whether they are preventable) would cost more than four times as much as the tort system.⁷

To keep costs equal to the tort system, researchers found that such a tribunal system could only compensate about one-third of patients injured by “avoidable” medical errors, and would have to limit compensation to no more than \$100,000 for noneconomic damages and no more than a two-thirds replacement of lost wages.⁸

5. An observation study conducted in 1989 and 1990 at an unnamed Chicago hospital found

that nearly 1-in-5 patients suffered an adverse incident during care.⁹

6. In response to the 1999 Institute of Medicine finding that 44,000 to 98,000 Americans are killed each year by preventable medical errors in hospitals, researchers from the Kaiser Family Foundation and the Harvard School of Public Health surveyed practicing physicians and randomly chosen members of the public on the prevalence of medical errors. The study, published in 2002 by *The New England Journal of Medicine*, revealed that 42 percent of members of the public reported errors in care that they or a family member had received. Meanwhile, 35 percent of physicians reported that they or a family member had received faulty care. Six percent of physicians reported that they or a family member suffered a lifelong disability due to a medical error, and 7 percent blamed a family member’s death on a medical error.¹⁰

V. Medical Care Remains Unsafe

Although no comprehensive study analogous to the California, New York or Colorado-Utah studies has been conducted this decade, there is no evidence that medical errors have declined.

Agency for Healthcare Research and Quality (AHRQ)

- In 2007, AHRQ, which bills itself as “the lead Federal agency charged with improving the quality, safety, efficiency, and effectiveness of health care for all Americans,” reported that the rate of adverse incidents in hospitals declined by only 1 percent from 2000 to 2005.¹¹
- In 2008, AHRQ analyzed medical care in areas including effectiveness, timeliness, patient centeredness, and efficacy. “Safety measures were the only area to show an overall decline, with only 45 percent of the measures showing at least some improvement,” AHRQ reported.¹²

HealthGrades

HealthGrades, a private health rating organization, has repeatedly issued findings this decade indicating that hospital safety has declined or failed to improve. Here are some examples:

- 2005: HealthGrades reported that the rates of six key types of “patient safety incidents” (PSIs), worsened on average by 20 percent or more over four years. Another six PSIs improved on average by less than 10 percent. Four PSIs showed no change.¹³
- 2006: The organization reported, “We determined that the rates of six key PSIs that are and have been national quality improvement focus areas continued to

increase, on average, by 12 percent or more from 2002 to 2004.”¹⁴

- 2007: “The total patient safety incident rate worsened by an additional 2.0 incidents per 1,000 hospitalizations in 2005 compared with 2003 ... More than half (10 of 16) of the patient safety incident rates worsened from 2003 to 2005. These ten indicators worsened, on average, by over 11.6 percent.”¹⁵
- 2008: “The PSIs with the greatest attributable mortality rates... showed an average worsening of 8.11 percent from 2004 to 2006.”¹⁶
- 2009: “While hospitals have made progress, medical mistakes still occur at an alarming rate.” Eight indicators improved, but seven indicators – accounting for 85.5 percent of the total safety events – worsened from 2005 to 2007.¹⁷

Never Events

The Joint Commission, a nonprofit institution that accredits hospitals and other health care service providers, reports on serious adverse events that it learns about. Because the Joint Commission relies primarily on self reporting by providers, its statistics are undoubtedly much lower than reality.

The Joint Commission reported learning about 116 wrong-site surgeries in 2008 and 71 instances in which foreign objects were left in the bodies of patients.¹⁸ These and several other “sentinel events” on which the Joint Commission reported are deemed “never events” by Medicare because they simply should not happen.¹⁹

Medicare Payment Advisory Commission

In its 2005 report, the commission told Congress that even though mortality rates were falling, “the rates of adverse events have generally increased. The rate of adverse events increased for 9 of the 13 measures analyzed from 1998 to 2003.”²⁰

Conclusion

Policy makers intent on reducing the legal liability of our health care system should address the crisis that experts acknowledge – the shocking prevalence of medical errors – instead of falling prey to the special interests' fiction that lawsuits are at the root of the problem.

Appendix

Table 1, from Figure 1: Number of Medical Malpractice Payments Made on Behalf of Physicians, 1991-2008

Year	Number of Payments	Number of Payments per 1 Million People (U.S. Population)
1991	13,399	53.1
1992	14,692	57.6
1993	14,629	56.7
1994	15,123	58.1
1995	13,988	53.2
1996	15,185	57.3
1997	14,531	54.3
1998	13,944	51.6
1999	14,945	54.8
2000	15,447	54.7
2001	16,571	58.1
2002	15,200	52.8
2003	15,233	52.5
2004	14,373	49.1
2005	14,008	47.4
2006	12,490	41.9
2007	11,475	38.1
2008	11,037	36.3

Sources: National Practitioner Data Bank and U.S. Census Bureau

Table 2, from Figure 2: Medical Malpractice Payments per 1,000 Physicians, 1992-2008

Year	# of Physicians	Number of Payments per 1,000 Physicians
1992	653,100	22.5
1993	670,300	21.8
1994	684,400	22.1
1995	720,300	19.4
1996	737,800	20.6
1997	756,700	19.2
1998	777,900	17.9
1999	797,600	18.7
2000	813,800	19.0
2001	836,200	19.8
2002	853,200	17.8
2003	871,500	17.5
2004	885,000	16.2
2005	902,100	15.5
2006	921,823	13.5

Sources: 1992-2005 physician population: U.S. Census Bureau, Statistical Abstract, "Physicians by Selected Activity" Table; 2006 physician population: American Medical Association, Physician Characteristics and Distribution in the US, 2006. Payments from National practitioner Data Bank

Table 3, from Figure 3: Value of Medical Malpractice Payments, 1991-2008

Year	Value of Total Payments Adjusted by Combination of Medical Services Index & CPI* (in 2008 dollars)	Value of Total Payments Adjusted by CPI Only (in 2008 dollars)	Value of Total Payments, Unadjusted
1991	\$3,997,524,505	\$3,334,733,873	\$2,109,542,150
1992	\$4,556,830,562	\$3,901,774,600	\$2,542,551,550
1993	\$4,489,787,760	\$3,921,721,721	\$2,632,052,450
1994	\$4,557,637,875	\$4,040,187,163	\$2,780,991,150
1995	\$4,258,123,606	\$3,821,937,006	\$2,705,318,550
1996	\$4,798,776,426	\$4,324,203,154	\$3,151,221,650
1997	\$4,574,958,223	\$4,136,158,567	\$3,083,345,100
1998	\$4,425,950,655	\$4,038,858,608	\$3,057,709,150
1999	\$4,719,376,017	\$4,334,267,924	\$3,353,827,100
2000	\$5,144,546,624	\$4,748,334,622	\$3,797,732,600
2001	\$5,716,252,127	\$5,332,659,048	\$4,386,441,050
2002	\$5,176,549,470	\$4,920,605,313	\$4,111,493,550
2003	\$5,373,563,187	\$5,167,906,500	\$4,416,542,250
2004	\$4,994,116,322	\$4,862,284,245	\$4,266,013,450
2005	\$4,581,569,267	\$4,493,303,661	\$4,075,847,550
2006	\$4,179,116,092	\$4,117,842,780	\$3,855,761,900
2007	\$3,860,161,158	\$3,852,379,917	\$3,709,935,100
2008	\$3,605,397,800	\$3,605,397,800	\$3,605,397,800

Sources: National Practitioner Data Bank; Bureau of Labor Statistics Consumer Price Index, (All Urban Consumers, Current Series) and Medical Services Inflation Index (All Urban Consumers, Current Series)

* Weighted 53% medical services index, 47% consumer price index.

Table 4, from Figure 4: Value of Medical Malpractice Payments Per Physician, 1992 to 2006

Year	Value of Payments Per Physician, Adjusted by Combination of Medical Services Index & CPI* (in 2008 dollars)	Value of Payments Per Physician Adjusted by CPI Only (in 2008 dollars)	Value of Payments Per Physician, Unadjusted
1992	\$6,977	\$5,974	\$3,893
1993	\$6,698	\$5,851	\$3,927
1994	\$6,659	\$5,903	\$4,063
1995	\$5,912	\$5,306	\$3,756
1996	\$6,504	\$5,861	\$4,271
1997	\$6,045	\$5,466	\$4,074
1998	\$5,690	\$5,192	\$3,931
1999	\$5,917	\$5,434	\$4,205
2000	\$6,322	\$5,835	\$4,667
2001	\$6,836	\$6,377	\$5,246
2002	\$6,067	\$5,767	\$4,819
2003	\$6,166	\$5,930	\$5,068
2004	\$5,643	\$5,494	\$4,820
2005	\$5,079	\$4,981	\$4,518
2006	\$4,534	\$4,467	\$4,183

Sources: National Practitioner Data Bank; Bureau of Labor Statistics Consumer Price Index, (All Urban Consumers, Current Series) and Medical Services Inflation Index (All Urban Consumers, Current Series)

* Weighted 53% medical services index, 47% consumer price index.

Table 5, from Figure 5: Average (Mean) Medical Malpractice Payment, 1991 to 2008

Year	Mean Payments Adjusted by Combination of Medical Services Index & CPI* (in 2008 dollars)	Mean Payments Adjusted by CPI Only (in 2008 dollars)	Mean Payments, Unadjusted
1991	\$298,390	\$248,916	\$157,464
1992	\$310,157	\$265,571	\$173,057
1993	\$306,910	\$268,079	\$179,920
1994	\$301,611	\$267,367	\$184,038
1995	\$304,609	\$273,406	\$193,527
1996	\$316,021	\$284,768	\$207,522
1997	\$314,841	\$284,644	\$212,191
1998	\$317,432	\$289,669	\$219,301
1999	\$315,783	\$290,015	\$224,411
2000	\$333,045	\$307,395	\$245,856
2001	\$344,976	\$321,826	\$264,722
2002	\$340,562	\$323,724	\$270,493
2003	\$352,758	\$339,257	\$289,933
2004	\$347,465	\$338,293	\$296,807
2005	\$327,068	\$320,767	\$290,966
2006	\$334,597	\$329,691	\$308,708
2007	\$336,397	\$335,719	\$323,306
2008	\$326,665	\$326,665	\$326,665

Sources: National Practitioner Data Bank; Bureau of Labor Statistics Consumer Price Index, (All Urban Consumers, Current Series) and Medical Services Inflation Index (All Urban Consumers, Current Series)

* Weighted 53% medical services index, 47% consumer price index.

Table 6, from Figure 6: Medical Liability Costs and Medical Malpractice Costs as Percentage of Total Health Care Spending, 1997-2006

Year	Total National Health Care Costs (in billions)	Sum of Direct Premiums Written for Physicians and Hospitals Liability Insurance (in billions)	Value of Malpractice Payments Made on Behalf of Doctors (in billions)	Medical Liability Premiums as a Percentage of Overall Health Care Costs	Medical Malpractice Payments as a Percentage of Overall Health Care Costs
1997	\$1,124.92	\$5.95	\$3.08	0.53%	0.27%
1998	\$1,190.06	\$6.21	\$3.06	0.52%	0.26%
1999	\$1,265.16	\$6.19	\$3.35	0.49%	0.27%
2000	\$1,353.19	\$6.43	\$3.80	0.48%	0.28%
2001	\$1,469.36	\$7.61	\$4.39	0.52%	0.30%
2002	\$1,602.28	\$9.64	\$4.11	0.60%	0.26%
2003	\$1,734.93	\$11.21	\$4.42	0.65%	0.25%
2004	\$1,854.84	\$11.96	\$4.27	0.64%	0.23%
2005	\$1,980.60	\$12.19	\$4.08	0.62%	0.21%
2006	\$2,112.67	\$12.31	\$3.86	0.58%	0.18%

Sources: National Practitioner Data Bank, National Association of Insurance Commissioners, Centers for Medicare and Medicaid Studies

Table 7, from Figure 7: Percentage of Payments by Injury Type Compared to All Payments, 2004-2008

Injury Type	2004	2005	2006	2007	2008
Emotional Injury Only	1.35%	1.63%	1.86%	1.86%	1.30%
Insignificant Injury	1.67%	1.57%	1.75%	1.57%	1.73%
Minor Temporary Injury	9.93%	9.22%	10.50%	8.99%	9.52%
Major Temporary Injury	9.02%	9.65%	8.81%	9.09%	10.03%
Minor Permanent Injury	12.17%	12.59%	12.36%	12.10%	12.03%
Significant Permanent Injury	15.71%	16.70%	15.06%	15.90%	15.51%
Major Permanent Injury	10.43%	10.93%	11.26%	10.23%	10.91%
Quadriplegic, Brain Damage, Lifelong Care	5.13%	4.88%	4.99%	6.24%	5.27%
Death	32.92%	32.06%	31.90%	32.89%	32.78%
Cannot Be Determined from Available Records	1.66%	0.76%	1.53%	1.12%	0.92%

Source: National Practitioner Data Bank

Table 8, from Figure 8: Total Value of Payments by Injury Type, 2004-2008

Injury Type	2004	2005	2006	2007	2008
Emotional Injury Only	\$14,573,000	\$22,547,250	\$24,549,800	\$23,021,350	\$12,359,250
Insignificant Injury	\$12,263,550	\$12,121,400	\$8,835,550	\$8,363,450	\$8,377,300
Minor Temporary Injury	\$101,059,050	\$104,682,750	\$130,721,900	\$100,298,650	\$103,843,400
Major Temporary Injury	\$197,722,800	\$212,387,000	\$190,869,100	\$196,338,300	\$205,103,050
Minor Permanent Injury	\$267,060,050	\$314,644,650	\$296,556,050	\$284,256,900	\$276,511,250
Significant Permanent Injury	\$656,728,250	\$780,065,000	\$728,582,250	\$684,939,250	\$659,952,800
Major Permanent Injury	\$636,639,750	\$754,976,250	\$685,471,800	\$618,161,250	\$645,842,500
Quadriplegic, Brain Damage, Lifelong Care	\$541,849,750	\$507,998,500	\$507,809,500	\$588,318,800	\$495,657,500
Death	\$1,164,001,850	\$1,321,016,450	\$1,221,904,350	\$1,171,621,150	\$1,176,820,250
Cannot Be Determined from Available Records	\$47,192,100	\$45,408,300	\$60,461,600	\$34,616,000	\$20,930,500

Source: National Practitioner Data Bank

**Table 9, from Figure 9: Average
(Mean) Payment by Type of
Injury, 2008**

Injury Type	Mean Payment in 2008
Emotional Injury Only	\$86,428
Insignificant Injury	\$43,860
Minor Temporary Injury	\$98,804
Major Temporary Injury	\$185,278
Minor Permanent Injury	\$208,216
Significant Permanent Injury	\$385,486
Major Permanent Injury	\$536,414
Quadriplegic, Brain Damage, Lifelong Care	\$851,645
Death	\$325,268
Cannot Be Determined from Available Records	\$207,233

Source: National Practitioner Data Bank

**Table 10, from Figure 10: Median
Payment by Type of Injury, 2008**

Injury	Median Payment in 2008
Emotional Injury Only	\$42,500
Insignificant Injury	\$17,500
Minor Temporary Injury	\$37,500
Major Temporary Injury	\$97,500
Minor Permanent Injury	\$115,000
Significant Permanent Injury	\$245,000
Major Permanent Injury	\$375,000
Quadriplegic, Brain Damage, Lifelong Care	\$505,000
Death	\$205,000

Source: National Practitioner Data Bank

Table 11, from the Cover: Medical Malpractice Liability Costs (Direct Premiums Written) and Total Healthcare Spending, 1997-2006

Year	Medical Malpractice Liability Costs (Direct Liability Insurance Premiums Written) (in billions)	Total Healthcare Spending (in billions)	Total Value of Medical Malpractice Payments (in billions)
1997	\$5.95	\$1,124.92	\$3.08
1998	\$6.21	\$1,190.06	\$3.06
1999	\$6.19	\$1,265.16	\$3.35
2000	\$6.43	\$1,353.19	\$3.80
2001	\$7.61	\$1,469.36	\$4.39
2002	\$9.64	\$1,602.28	\$4.11
2003	\$11.21	\$1,734.93	\$4.42
2004	\$11.96	\$1,854.84	\$4.27
2005	\$12.19	\$1,980.60	\$4.08
2006	\$12.31	\$2,112.67	\$3.86

Sources: National Practitioner Data Bank, National Association of Insurance Commissioners, Centers for Medicare and Medicaid Studies

Notes

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