

Medical Malpractice Payments Sunk to Record Low in 2011

Skyrocketing Healthcare Costs and Rampant Medical Errors
Discredit the Promises Put Forth by Advocates of Tort Reform

Acknowledgments

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Summary and Discussion

Medical malpractice payments were at their lowest level on record in 2011 by almost any measure. Specifically, both the number of malpractice payments made on behalf of doctors and the inflation-adjusted value of such payments were at their lowest levels since 1991, the earliest full year in which the government collected such data.

But, contrary to the promises of policymakers and leaders of physician groups who have spent the past two decades championing efforts to restrict patients' legal rights, there is no evidence that patients have received any benefits in exchange for ceding their legal remedies. Instead, the evidence suggests that litigation restrictions have suppressed meritorious claims, forcing malpractice victims and ordinary patients to absorb the costs of treating injuries caused by uncompensated medical errors.

The Number of Malpractice Payments on Behalf of Doctors in 2011 Was the Lowest on Record. The number of malpractice payments made on behalf of physicians fell for the eighth consecutive year in 2011, plummeting to the lowest total since the creation of the National Practitioner Data Bank (NPDB), which has tracked medical malpractice payments since the fall of 1990.

The Inflation-Adjusted Total Value of Payments Made on Behalf of Doctors in 2011 Was the Lowest on Record. The cumulative value of malpractice payments in 2011 was the lowest in the history of the NPDB if adjusted for inflation by either the consumer price index (CPI) or the medical services index. Even in unadjusted dollars, payments fell for the eighth straight year in 2011 and were at their lowest level since 1998.

Medical Malpractice Payments' Share of the Nation's Total Healthcare Bill Was the Lowest on Record in 2011. Medical malpractice payments on behalf of doctors accounted for just 0.12 percent of national healthcare costs last year.

Total Costs for Medical Malpractice Litigation, as Measured By Liability Insurance Premiums Paid by Doctors and Hospitals, Were the Lowest in 2010 Since NPDB Data Collection Began. Liability insurance premiums provide a broad estimate of malpractice litigation costs. Besides payments to victims, they cover litigation defense costs, liability insurers' profits, and insurers' administrative costs. Such costs fell in 2010 to just 0.36 of 1 percent of national healthcare expenditures. (Note: This comparison uses 2010 data because 2011 liability insurance data are not yet available.)

Four-Fifths of Medical Malpractice Awards Compensate for Death, Catastrophic Harms or Serious Permanent Injuries. Despite suggestions by those seeking to reduce patients' legal rights that medical malpractice lawsuits are largely "frivolous," the vast majority of payments compensate for extremely serious harms. Four-fifths (80 percent) of the money paid for medical negligence in 2011 compensated victims or their surviving family members for harms defined by the NPDB

as significant permanent injuries; major permanent injuries; quadriplegia, brain damage, or injuries requiring lifelong care; or death. The latter two categories (quadriplegia, brain damage, or injuries requiring lifelong care; and death) accounted for 44 percent of the dollars spent to compensate victims of medical malpractice.

Declines in Litigation Do Not Translate into Lower Costs for Consumers. Between 2000 and 2011, the value of medical malpractice payments fell 11.9 percent while healthcare spending nearly doubled, increasing 96.7 percent (both calculations in unadjusted dollars). These figures debunk claims that medical malpractice litigation is responsible for rising healthcare costs, as well as promises that patients should expect savings from litigation restrictions.

Texas, which in 2003 implemented some of the nation's most stringent restrictions on medical malpractice litigation, has often been cited by tort reform advocates as proof that their prescription works. For example, Rep. Lamar Smith (R-Texas), a co-sponsor of pending legislation (H.R. 5)¹ that would impose a federal \$250,000 cap on non-economic damages for medical malpractice claims, wrote in an op-ed that the Texas liability caps have led to an increase in the number of doctors in Texas, which, he said, "means Texans pay less to have better healthcare and more options."²

Actual results in Texas disprove the claims put forth by Smith and other national political figures. Malpractice payments on behalf of Texas doctors declined nearly 65 percent (in unadjusted dollars) from 2003 to 2010, Public Citizen found in an [analysis](#) of outcomes in Texas that was published in 2011. But private insurance rates and per-patient Medicare spending in Texas have increased faster than the national average.³

In response to Public Citizen's findings, the executive director of the Texas advocacy group that spent the most to campaign for the Texas tort restrictions denied that reducing costs was ever intended. "We never claimed that lawsuit reform would reduce consumer healthcare costs," said Jon Opelt, executive director of the Texas Alliance for Patient Access.⁴ His group was the top contributor (\$1.2 million) to "Yes on 12," the group that led the campaign for the ballot initiative in which voters approved the litigation restrictions.⁵

¹ Protecting Access to Healthcare Act H.R. 5, 112th Cong. (2011).

² Rep. Lamar Smith, *Tort Reform Key to Cutting Soaring Healthcare Costs*, THE HILL, March 19, 2010, <http://bit.ly/nHxcWk>.

³ TAYLOR LINCOLN, PUBLIC CITIZEN, A FAILED EXPERIMENT HEALTH CARE IN TEXAS HAS WORSENERED IN KEY RESPECTS SINCE STATE INSTITUTED LIABILITY CAPS IN 2003 (October 2011), <http://bit.ly/nFbxoL>. (Payments in Texas declined an additional 12 percent from 2010 to 2011.)

⁴ Marilyn Tennissen, *Health Professionals Refute Report that Texas Tort Reform Is a Failure*, LEGALNEWSLINE.COM (Oct. 21, 2011), <http://bit.ly/L3LEoo>.

⁵ Mary Ann Roser, *New Study: Tort Reform Has Not Reduced Health Care Costs in Texas*, AUSTIN AMERICAN-STATESMAN (June 20, 2012), <http://bit.ly/MksVsK>.

Opelt's assertion runs directly counter to the claims of many in Congress who have adopted legal restrictions as the solution for America's healthcare problems. The op-ed by Rep. Lamar Smith cited above, for instance, is titled "Tort Reform Key to Cutting Soaring Healthcare Costs." Opelt's assertion also is false. The "Yes on 12" campaign distributed materials promising that the proposal would lead to "lower costs and more security in our healthcare system." The group also sent out a letter signed by Texas Gov. Rick Perry (R) claiming that "Texans can help make healthcare more affordable and accessible" by approving the ballot measure.⁶

A study published in the June 2012 edition of the *Journal of Empirical Legal Studies* supported Public Citizen's conclusion that the Texas tort limitations have not saved money.⁷ The researchers examined Texas Medicare spending and medical malpractice claims on a county-by-county basis both before and after the state's liability caps took effect. They found no evidence that the caps reduced costs.

"In sum, no matter how we slice the data, we find no evidence that the Texas 2003 tort reforms 'bent the cost curve' downward," the authors concluded. The "accumulation of recent evidence finding zero or small effects suggests that that it is time for policymakers to abandon the hope that tort reform can be a major element in health-care cost control."⁸

Litigation Trends Debunk the Core of the Defensive Medicine Theory. Because actual litigation costs are so small in relation to overall healthcare spending, those who seek to blame litigation for rising healthcare costs typically rely on purported "defensive medicine" to support their claims. The defensive medicine theory posits that doctors' fear of litigation is driving up healthcare costs by prompting them to conduct unnecessary tests and procedures to insulate themselves from liability. Because defensive medicine—to the extent it exists—is the product of physicians' private motivations, the phenomenon is impossible to precisely quantify and, thus, subject to preposterous claims.

Rep. Phil Gingrey (R-Ga.), the chief sponsor of the House medical malpractice measure, H.R. 5, claimed that his bill would "save billions of dollars a year in federal taxpayer dollars by reducing the need for 'defensive medicine'."⁹ Current House Speaker John Boehner (R-Ohio) went so far as to claim at the height of debate over health reform legislation that "medical

⁶ *Id.*

⁷ *Id.*

⁸ Myungho Paik, Bernard S. Black, David A. Hyman, and Charles Silver, *Will Tort Reform Bend the Cost Curve? Evidence from Texas*, 9 JOURNAL OF EMPIRICAL LEGAL STUDIES 173, 175-76 (2012), <http://bit.ly/M9hCR1>.

⁹ Press Release, Rep. Phil Gingrey (R-Ga.), *Gingrey, Smith, Scott Call on President to Support Medical Liability Reform* (Jan. 24, 2011), <http://1.usa.gov/KYDlor>.

malpractice and the defensive medicine that doctors practice” is the “biggest cost driver” in all of medicine.¹⁰

But data showing the costs of litigation and overall healthcare expenditures over time (as documented in this report) serve to debunk the claim that defensive medicine could be responsible for our soaring healthcare costs. For defensive medicine to be culpable, doctors’ fear of litigation (and accompanying unnecessary actions to protect themselves) would have to be rising dramatically in an era in which their risk of being sued is in steep decline. Such a conclusion does not stand to reason.

There Is No Evidence that the Decline in Medical Malpractice Payments Is Due to Safer Medical Care. For years, observers of healthcare safety issues referred to the 1998 Institute of Medicine (IOM) report, “To Err Is Human,” for guidance on the prevalence of medical errors. That study concluded that 44,000 and 98,000 patients were dying every year because of avoidable medical errors. That conclusion meant that several times as many people were dying from medical errors as the total number of patients receiving compensation for medical malpractice.¹¹

In 2010 and 2011, three major studies reached conclusions on medical errors at least as shocking as those in the IOM report:

- The inspector general for the Department of Health and Human Services (HHS) in 2010 concluded that one-in-seven Medicare patients in hospital care experienced a serious adverse event, that these adverse events contributed to the deaths of 1.5 percent of patients, and that 44 percent of the adverse events were preventable. These findings translate to more than 700,000 Medicare patients experiencing a serious, preventable, adverse event every year, including nearly 80,000 suffering preventable adverse events that contribute to their deaths.¹²
- A 2010 study of patients treated in North Carolina hospitals found that 18 percent suffered adverse events and that 63 percent of these harms were avoidable. Of the adverse events, 2.4 percent caused or contributed to a patient’s death.¹³
- An April 2011 study published in *Health Affairs* concluded that errors or adverse events occur in nearly one-in-three hospital admissions. Donald M. Berwick, then the

¹⁰ Rep. Boehner’s comments during televised summit to debate health care legislation (Feb. 25, 2010), <http://bit.ly/qe9R6D>.

¹¹ TO ERR IS HUMAN: BUILDING A SAFER HEALTH CARE SYSTEM, INSTITUTE OF MEDICINE (1999), <http://bit.ly/ddHie> and National Practitioner Data Bank. (In 1999, 14,942 medical malpractice payments were made on behalf of doctors.)

¹² ADVERSE EVENTS IN HOSPITALS: NATIONAL INCIDENCE AMONG MEDICARE BENEFICIARIES, HEALTH AND HUMAN SERVICES OFFICE OF INSPECTOR GENERAL (NOVEMBER 2010), [HTTP://1.USA.GOV/AESs3Y](http://1.usa.gov/AESs3Y).

¹³ Christopher P. Landrigan *et al.*, *Temporal Trends in Rates of Patient Harm Resulting from Medical Care*, 363 NEW ENGLAND JOURNAL OF MEDICINE 2134 (2010), <http://bit.ly/dQnfpf>.

administrator of the Centers for Medicare and Medicaid Services (CMS), said the *Health Affairs* study “raised the stakes by finding ... that the number of adverse events could be 10 times greater than we originally thought.”¹⁴

Comparing the well-recognized prevalence of medical errors with the relatively small numbers of malpractice payments leads to the inescapable conclusion that the overwhelming majority of medical errors do not lead to litigation. Researchers have reached similar conclusions. For instance, the Harvard School of Health’s Michelle M. Mello and her co-authors in 2007 wrote in analysis of existing literature that only “2 to 3 percent of patients injured by negligence file malpractice claims ... The findings of our analysis indicate that the overwhelming proportion of the costs of hospital medical injuries are shifted to parties other than the hospital.”¹⁵

Uncompensated Medical Errors Are Costing Both Victims and Taxpayers Significantly. In contrast to the hundreds of thousands of annual avoidable adverse events (and tens or hundreds of thousands of deaths) that major studies attribute to medical mistakes, only 9,758 medical malpractice payments were made on behalf of doctors in 2011. To put this figure in perspective, the total number of payments made in 2011 equaled only a little more than 1 percent of the number of Medicare patients that the Department of Health and Human Services estimates to suffer serious, avoidable injuries in a given year—and that’s just Medicare patients.

This demonstrates that the vast majority of medical malpractice errors are not resulting in malpractice compensation payments for patients. Research has shown that about half the value of medical malpractice payments, on average, is intended to compensate for the future medical costs of patients.¹⁶ When victims of malpractice do not receive compensation, their future medical costs must be borne by somebody: the victims themselves or the medical system as a whole in the form of unreimbursed care.

The juxtaposition of declining medical malpractice payments, skyrocketing medical costs, and consistent findings of rampant medical errors discredit the underlying promises of those who have campaigned to reduce patients’ access to legal remedies. The only sensible response is for policymakers and physicians to dedicate themselves to pursuing patient safety measures with the same vigor they have applied to limiting patients’ legal rights. That is a solution we could all live with.

¹⁴ David C. Classen et al., *Global Trigger Tool Shows that Adverse Events In Hospitals May Be Ten Times Greater than Previously Measured*, 30 HEALTH AFFAIRS 581 (2011), <http://bit.ly/eGgg0G> and Chris Flemming, *Sebelius and Berwick Highlight HA Study at Patient Safety Initiative Launch*, HEALTH AFFAIRS BLOG (April 12, 2011), <http://bit.ly/eaNDeq>.

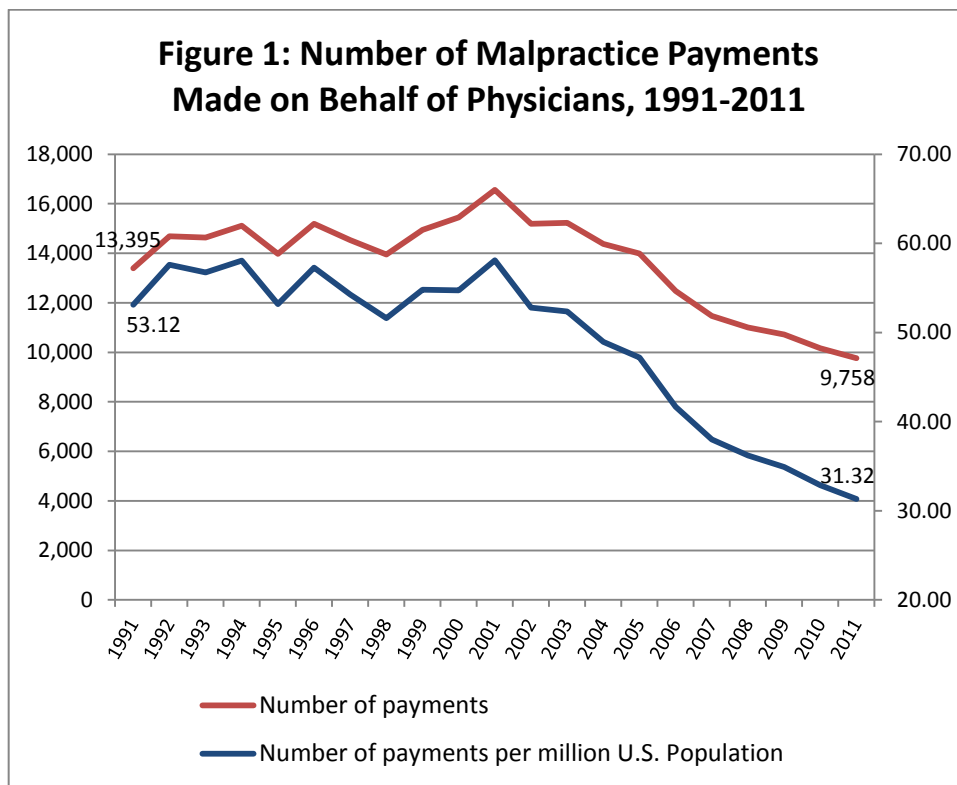
¹⁵ Michelle M. Mello, et al., *Who Pays for Medical Errors? An Analysis of Adverse Event Costs, the Medical Liability System, and Incentives for Patient Safety Improvement*, 4 JOURNAL OF EMPIRICAL LEGAL STUDIES, 835, 838 (2007), <http://bit.ly/LD9TLt>.

¹⁶ David M. Studdert et al., *Beyond Dead Reckoning*, 33 INDIANA LAW REVIEW 1643, 1684 (2000).

Data Analysis

The Number of Medical Malpractice Payments On Behalf of Doctors in 2011 Was the Lowest on Record.

The number of malpractice payments made on behalf of doctors fell 4 percent from 2010 to 2011, marking the eighth consecutive year the number of payments has fallen. Last year marked the first time since the government began tracking such data in 1991 that the number of payments fell below 10,000. The number payments in 2011 was 41.1 percent lower than in 2000, the year in which the most medical malpractice payments were made. The *per capita* number of payments in 2011 was 46.1 percent lower than in 2000. [See Figure 1; Raw data for Figure 1 are in the Appendix.]

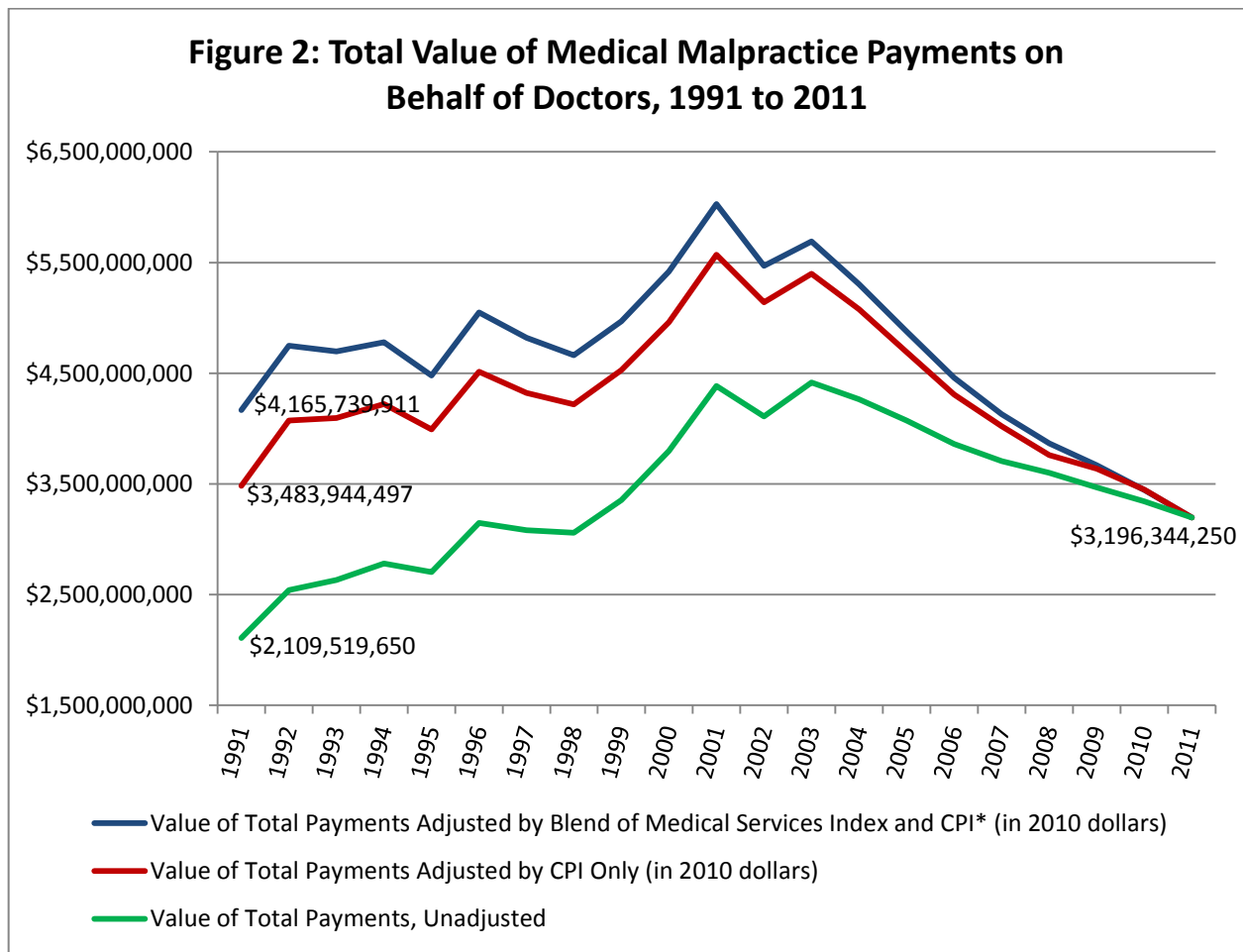


Sources: National Practitioner Data Bank and U.S. Census Bureau.

Inflation-adjusted Value of Medical Malpractice Payments Fell to Lowest Level on Record in 2011.

The inflation-adjusted amount of money paid on behalf of doctors to resolve medical malpractice claims in 2011 was the lowest since the government began keeping track of the data. In actual dollars, payments in 2011 were the lowest since 1998. This report adjusts payments for inflation in two ways: by the consumer price index (CPI) and by a 53-47 percent blend of the medical services index and the CPI. The use of this blended index is appropriate because a significant share of medical malpractice payments compensate for future medical costs. Researchers analyzing a seminal 1992 Utah-Colorado patient safety study concluded that

53 percent of medical malpractice payments, on average, were to offset future medical costs.¹⁷ [See Figure 2; Raw data for Figure 2 are in the Appendix.]



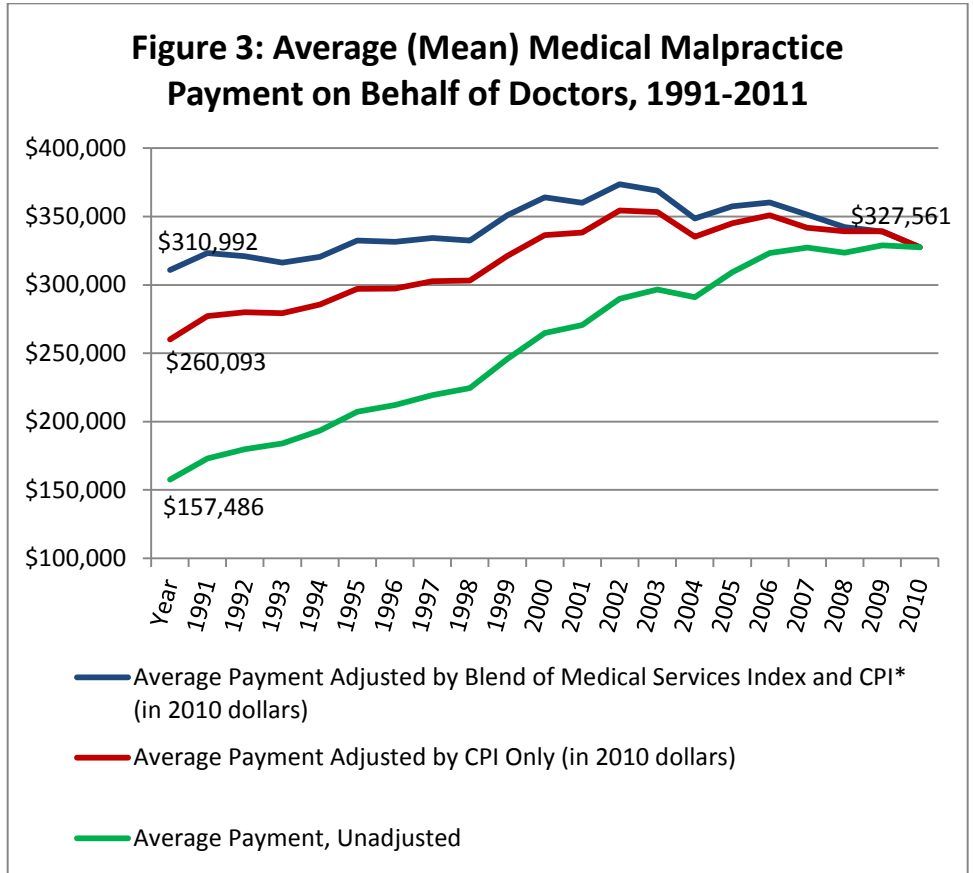
Sources: National Practitioner Data Bank; Bureau of Labor Statistics Consumer Price Index, (All Urban Consumers, Current Series) and Medical Services Inflation Index (All Urban Consumers, Current Series).

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

The Average Size of Medical Malpractice Payments Declined in 2011.

As the prevalence of medical malpractice payments has declined over the past decade, the average size of payments has generally held about constant or risen slightly. This likely is due to an increase in the proportion of cases regarding particularly severe harms in an era in which the overall number of cases has decreased. In other words, as legal developments in many states have made it far more difficult to pursue malpractice claims, it is likely that only the most patently meritorious cases involving the greatest harms, remain. But average payments also declined in 2011, both on an absolute and inflation-adjusted basis. When adjusted by a blend of the medical services index and the CPI, average payments were at their lowest level in 2011 since 1995. [See Figure 3; Raw data for Figure 3 are in the Appendix.]

¹⁷ David M. Studdert *et al.*, *Beyond Dead Reckoning*, 33 INDIANA LAW REVIEW 1643, 1684 (2000).



Medical Malpractice Costs Remained a Tiny Percentage of Overall Health Costs in 2010-2011.

The sum of medical malpractice payments made on behalf of doctors in 2011 amounted to only 0.12 percent of total U.S. healthcare costs. This is the lowest level on record. [See Figure 4]

The total cost of medical liability insurance (encompassing policies on behalf of doctors and hospitals) was only 0.36 percent of total healthcare costs in 2010, the most recent year for which medical premiums data are available. This was the lowest level since the NPDB was created. The total cost of liability insurance serves as a broad proxy for the total cost of medical malpractice payments on the healthcare system because liability insurance covers not only payments but also litigation defense costs, insurance companies’ profits and the companies’ overhead.

The costs of medical malpractice litigation (whether measured by total payments or insurance premiums) have always been minuscule relation to overall healthcare expenditures. However, even that share is significantly lower now than in the past. For instance, payments on behalf of doctors as a proportion of national healthcare costs were 60 percent lower in 2011 than in 1992, when they were at their apex for the timeframe covered in this study. Medical liability

premiums as a percentage of healthcare costs were 44 percent lower in 2010 than in 1991, when they were their highest for the time period covered.

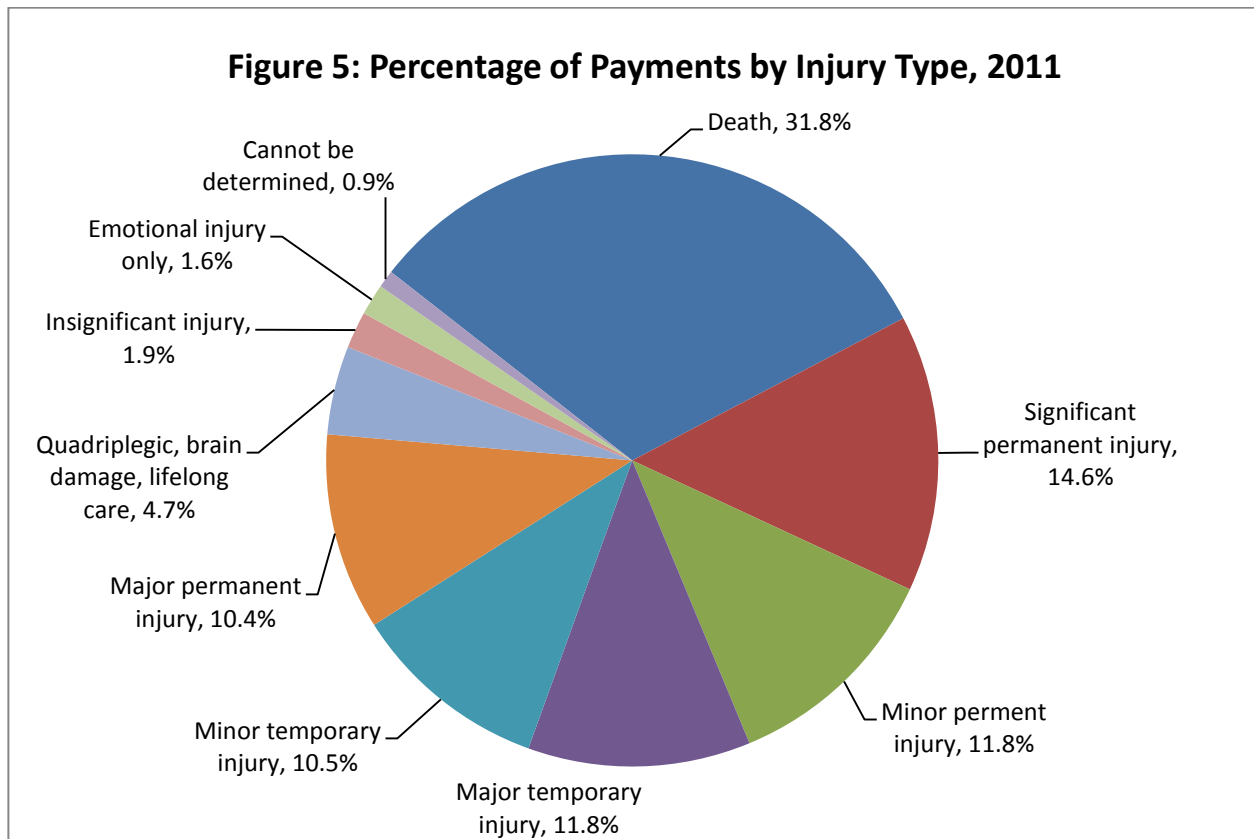
Figure 4: Medical Liability Costs and Malpractice Payments as Percentage of Total Health Care Spending, 1991-2011

Year	Total National Healthcare Costs (in billions of actual dollars)	Sum of Premiums Written for Doctors' and Hospitals' Liability Insurance (in billions of actual dollars)	Value of Malpractice Payments Made on Behalf of Doctors (in billions of actual dollars)	Medical Liability Premiums as a Percentage of Overall Healthcare Costs	Medical Malpractice Payments as a Percentage of Overall Healthcare Costs
1991	\$791.52	\$5.04	\$2.11	0.64%	0.27%
1992	\$857.93	\$5.23	\$2.54	0.61%	0.30%
1993	\$921.50	\$5.47	\$2.63	0.59%	0.29%
1994	\$972.70	\$5.95	\$2.78	0.61%	0.29%
1995	\$1,027.46	\$6.11	\$2.71	0.59%	0.26%
1996	\$1,081.86	\$6.00	\$3.15	0.55%	0.29%
1997	\$1,142.63	\$5.86	\$3.08	0.51%	0.27%
1998	\$1,209.04	\$6.04	\$3.06	0.50%	0.25%
1999	\$1,286.62	\$6.05	\$3.35	0.47%	0.26%
2000	\$1,377.19	\$6.30	\$3.80	0.46%	0.28%
2001	\$1,494.12	\$7.29	\$4.39	0.49%	0.29%
2002	\$1,636.42	\$8.93	\$4.11	0.55%	0.25%
2003	\$1,774.30	\$10.14	\$4.42	0.57%	0.25%
2004	\$1,900.04	\$11.50	\$4.26	0.61%	0.22%
2005	\$2,029.15	\$11.58	\$4.07	0.57%	0.20%
2006	\$2,162.41	\$11.88	\$3.86	0.55%	0.18%
2007	\$2,297.10	\$11.14	\$3.71	0.48%	0.16%
2008	\$2,403.94	\$10.69	\$3.60	0.44%	0.15%
2009	\$2,495.84	\$9.84	\$3.47	0.39%	0.14%
2010	\$2,593.64	\$9.40	\$3.34	0.36%	0.13%
2011	\$2,695.00 (estimate)	n/a	\$3.20	n/a	0.12%

Sources: National Practitioner Data Bank, A.M. Best & Co. and Centers for Medicare and Medicaid Studies.

More than 60 Percent of the Number of Medical Malpractice Payments In 2011 Compensated for Death, Quadriplegia, Brain Damage or Permanent Injuries Deemed ‘Significant’ or ‘Major.’

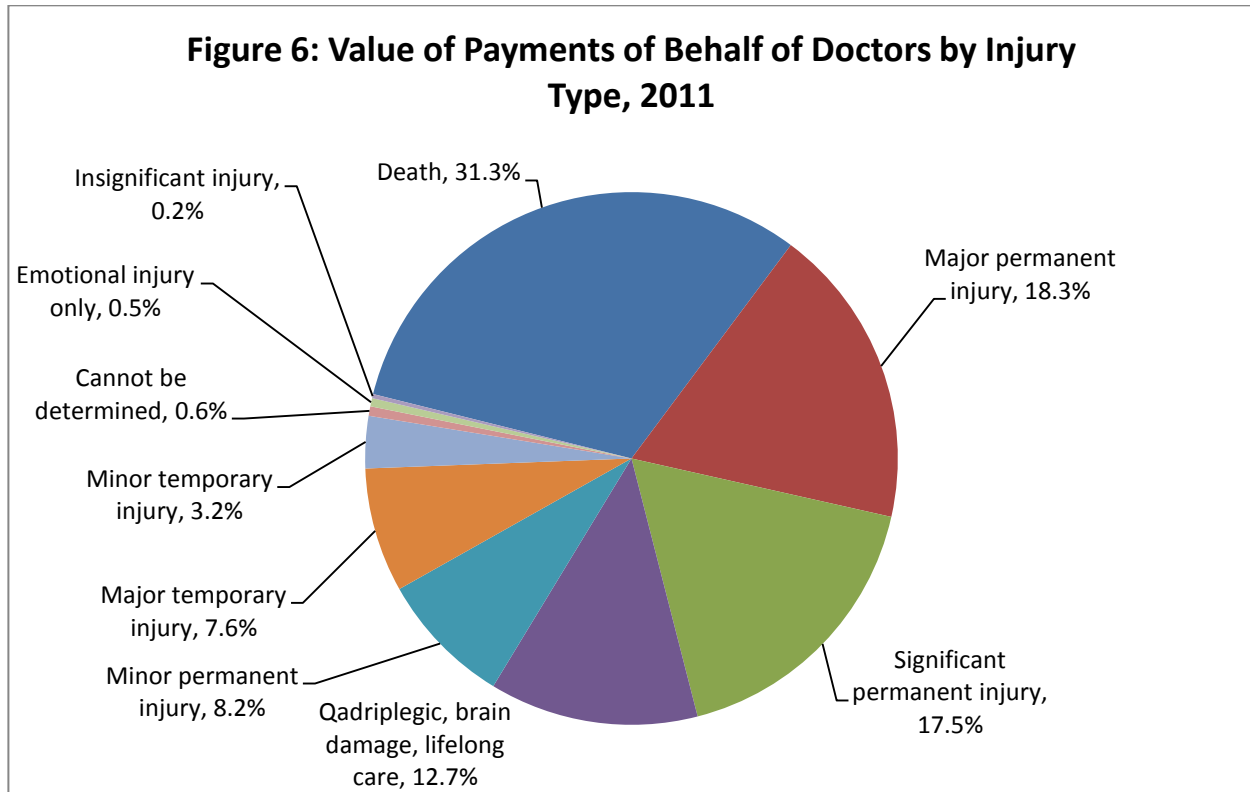
Despite rhetoric about “frivolous lawsuits,” the vast majority of medical malpractice payments compensate for injuries that no one would deem frivolous. Of the 9,758 medical malpractice payments in 2011, more than three-fifths (61.4 percent) compensated for negligence that resulted in a significant permanent injury, major permanent injury, quadriplegia, brain damage, the need for lifelong care, or death. [See Figure 5; Raw data for Figure 5 are in the Appendix.]



Source: National Practitioner Data Bank.

80 Percent of the Value of Medical Malpractice Payments In 2011 Compensated for Death, Quadriplegia, Brain Damage or Permanent Injuries Deemed Significant or Major.

The dollar value of payments for these extremely serious outcomes accounted for four-fifths (80 percent) of the total value of malpractice payments last year. Nearly half the money paid (44 percent) compensated victims and victims’ survivors for negligence resulting in death, quadriplegia, brain damage or injuries requiring lifelong care. “Insignificant injury” and “emotional injury only,” respectively, accounted for between 0.25 percent and 0.5 percent of dollars paid in 2010. [See Figure 6; Raw data for Figure 6 are in the Appendix.]



Source: National Practitioner Data Bank.

Conclusion

The findings in this report were made possible by analysis of the National Practitioner Data Bank (NPDB), to which all payments on behalf of doctors and certain disciplinary actions must to be reported. The legislation creating the NPDB calls for the identities of physicians to be excluded from the public version of the database.

During the course of 2011, the Health Resources and Services Administration (HRSA) temporarily withdrew the public access version of the database because a news reporter attempted to determine the identity of a physician by cross-referencing data in the NPDB with publicly available records.¹⁸ In fact, the database's utility would be greatly increased if such information were publicly available in the first place.

Congress should pass legislation to allow the public and physicians to see the names of the doctors whose payments and disciplinary actions are stored in the database. Congress also should broaden the scope of the NPDB to include payments made by hospitals. That would give Americans more information on this highly sensitive issue and give the medical profession a greater incentive to improve safety.

¹⁸ Kevin B. O'Reilly, *HHS Removes Public Access to National Practitioner Data Bank*, AMEDNEWS.COM (Sept. 26, 2011), <http://bit.ly/NgLa0Q>.

Appendix

Figure 1: Number of Medical Malpractice Payments Made on Behalf of Physicians, 1991-2011

Year	Number of Payments	Number of Payments per 1 Million People (U.S. Population)
1991	13,395	53.1
1992	14,690	57.6
1993	14,629	56.7
1994	15,112	58.1
1995	13,979	53.2
1996	15,188	57.3
1997	14,531	54.3
1998	13,943	51.6
1999	14,942	54.8
2000	15,445	54.7
2001	16,565	58.1
2002	15,195	52.8
2003	15,230	52.4
2004	14,369	48.9
2005	13,993	47.2
2006	12,476	41.7
2007	11,462	38.0
2008	11,003	36.2
2009	10,718	34.9
2010	10,163	32.9
2011	9,758	31.3

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

Figure 2: Value of Medical Malpractice Payments on Behalf of Doctors, 1991-2011

Year	Value of Total Payments Adjusted by Blend of Medical Services Index and CPI* (in 2011 dollars)	Value of Total Payments Adjusted by CPI Only (in 2011 dollars)	Value of Total Payments, Unadjusted
1991	\$4,165,739,911	\$3,483,944,497	\$2,109,519,650
1992	\$4,749,444,119	\$4,073,182,025	\$2,540,544,050
1993	\$4,696,668,152	\$4,096,016,524	\$2,631,266,200
1994	\$4,779,610,819	\$4,220,799,185	\$2,780,853,650
1995	\$4,479,013,250	\$3,992,631,900	\$2,705,076,050
1996	\$5,048,053,064	\$4,513,545,331	\$3,148,299,150
1997	\$4,818,648,696	\$4,320,861,099	\$3,083,050,100
1998	\$4,662,496,228	\$4,219,619,868	\$3,057,709,150
1999	\$4,967,697,324	\$4,528,572,738	\$3,354,065,850
2000	\$5,419,788,785	\$4,960,011,215	\$3,797,091,350
2001	\$6,029,159,548	\$5,570,974,161	\$4,386,164,800
2002	\$5,469,477,787	\$5,140,237,884	\$4,111,020,300
2003	\$5,689,758,519	\$5,397,884,716	\$4,415,467,250
2004	\$5,302,897,837	\$5,077,028,568	\$4,263,603,450
2005	\$4,878,473,731	\$4,691,389,691	\$4,073,230,550
2006	\$4,459,492,578	\$4,306,546,584	\$3,859,712,150
2007	\$4,130,047,585	\$4,021,421,281	\$3,706,825,100
2008	\$3,865,900,335	\$3,761,599,505	\$3,600,459,050
2009	\$3,667,867,577	\$3,636,385,534	\$3,468,225,800
2010	\$3,445,228,868	\$3,447,230,973	\$3,341,747,750
2011	\$3,196,344,250	\$3,196,344,250	\$3,196,344,250

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.

Figure 3: Average (Mean) Medical Malpractice Payment on Behalf of Doctors, 1991-2011

Year	Mean Payment Adjusted by Blend of Medical Services Index and CPI* (in 2011 dollars)	Mean Payment Adjusted by CPI Only (in 2011 dollars)	Average Payment, Unadjusted
1991	\$310,992	\$260,093	\$157,486
1992	\$323,311	\$277,276	\$172,944
1993	\$321,052	\$279,993	\$179,866
1994	\$316,279	\$279,301	\$184,016
1995	\$320,410	\$285,616	\$193,510
1996	\$332,371	\$297,178	\$207,289
1997	\$331,612	\$297,355	\$212,171
1998	\$334,397	\$302,634	\$219,301
1999	\$332,465	\$303,077	\$224,472
2000	\$350,909	\$321,140	\$245,846
2001	\$363,970	\$336,310	\$264,785
2002	\$359,952	\$338,285	\$270,551
2003	\$373,589	\$354,424	\$289,919
2004	\$369,051	\$353,332	\$296,722
2005	\$348,637	\$335,267	\$291,091
2006	\$357,446	\$345,186	\$309,371
2007	\$360,325	\$350,848	\$323,401
2008	\$351,350	\$341,870	\$327,225
2009	\$342,216	\$339,278	\$323,589
2010	\$338,997	\$339,194	\$328,815
2011	\$327,561	\$327,561	\$327,561

Sources: National Practitioner Data Bank and 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.

Figure 4: Medical Liability Costs and Malpractice Payments as Percentage of Total Health Care Spending, 1991-2011

[Figures are included in Data Analysis Section, above]

Figure 5: Number of Medical Malpractice Payments By Injury Type, 2011

Injury Type	Count of Payment	Percentage
Death	3,099	31.8%
Significant permanent injury	1,425	14.6%
Minor permanent injury	1,154	11.8%
Major temporary injury	1,148	11.8%
Minor temporary injury	1,021	10.5%
Major permanent injury	1,014	10.4%
Quadriplegic, brain damage, lifelong care	456	4.7%
Insignificant injury	190	1.9%
Emotional injury only	161	1.6%
Cannot be determined	90	0.9%

Source: National Practitioner Data Bank.

Figure 6: Value of Medical Malpractice Payments By Injury Type, 2011

Injury Type	Sum of Payments	Percentage
Death	\$1,001,047,500	31.3%
Major permanent injury	\$585,318,350	18.3%
Significant permanent injury	\$558,858,850	17.5%
Quadriplegic, brain damage, lifelong care	\$405,302,500	12.7%
Minor permanent injury	\$260,861,750	8.2%
Major temporary injury	\$241,450,800	7.6%
Minor temporary injury	\$101,152,800	3.2%
Cannot be determined	\$18,449,500	0.6%
Emotional injury only	\$15,928,800	0.5%
Insignificant injury	\$7,973,400	0.2%

Source: National Practitioner Data Bank.