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Joan Claybrook, President

NEWS RELEASE

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Contact: Gordon Clark, PC (202) 454-5104
Frank Clemente, PC (202) 441-9818
Lauren Townsend, CCJ (215) 569-8220

Pennsylvania Doctors Not Facing a Medical Malpractice Insurance Crisis, Public Citizen Report Shows

Lawsuits Not Responsible for Insurance Rate Spike, Malpractice Awards Are Flat or Declining and No Evidence of a Doctor Exodus

WASHINGTON, D.C. – Contrary to claims by the Pennsylvania Medical Society and its allies in the state legislature, physicians in Pennsylvania are not facing a “crisis” in medical malpractice insurance rates caused by a rash of patient lawsuits and skyrocketing jury awards, according to a Public Citizen report released today.

Data from government sources show that in Pennsylvania in recent years the annual number of medical malpractice awards declined, the number of awards per doctor declined, the number of higher-end cases and \$1 million-plus jury verdicts declined, and the number of doctors in Pennsylvania increased at nearly twice the rate of the overall increase in state population.

These findings stand in stark contrast to claims made by lobbyists for Pennsylvania doctors and insurers – claims that are being used to justify a state constitutional amendment that would authorize limits as low as \$250,000 on the amount injured patients can receive in non-economic damages, also known as “pain and suffering.” According to the Public Citizen report, such “caps” on damages do little to reduce the cost of insurance for doctors, while limiting a patient’s ability to hold a health care provider fully accountable for negligence.

“Pennsylvania does not have a problem with medical malpractice lawsuits,” said Frank Clemente, director of Public Citizen’s Congress Watch and an author of the study. “Pennsylvania residents need to look beyond the scare tactics of the American Medical Association and the Pennsylvania Medical Society and demand solutions that will improve the quality of medical care.”

Added Lauren Townsend, executive director of Citizens for Consumer Justice, “This report is further evidence of what CCJ has been saying for years – that Pennsylvania needs real patient safety, insurance reform and doctor discipline, not restrictions on patient rights.”

The 51-page report, *The Facts About Medical Malpractice in Pennsylvania*, is available at <http://www.citizen.org/congress/civjus/medmal/articles.cfm?ID=11193>. Major findings about Pennsylvania in the report include:

- The annual number of medical malpractice awards in Pennsylvania declined by at least 6.3 percent and as much 13.1 percent from 1995 to 2002, depending on which set of federal

National Practitioner Data Bank (NPDB) data are used. There were 957 medical malpractice awards made in Pennsylvania in 1995 and 832 awards made in 2002 – a decrease of 125, or 13.1 percent.

- The rate of medical malpractice awards per Pennsylvania physician dropped at least 9.2 percent and by as much as 16 percent from 1995 to 2002, depending on which set of NPDB data are used. The number of malpractice awards per 100 Pennsylvania doctors was 2.81 in 1995 and dropped to 2.36 in 2002 – a decline of 16 percent.
- Mcare/CAT claims, cases and payouts have declined or been stable for the past five years. The number of claims for which payouts were made declined from 706 in 1999 to 699 in 2003, according to the Pennsylvania Department of Insurance. The number of cases in which Mcare has made payouts has dropped from 580 in 1999 to 542 in 2003 – a decrease of 6.5 percent. The total amount of payouts for all claims rose by only 1 percent per year from 1999 to 2003, from \$300.8 million to \$314.0 million, after adjusting for medical care services inflation.
- The number of \$1 million jury verdicts fell by 50 percent from 2000 to 2002, declining from 44 in 2000 to 22 in 2002, according to the Pennsylvania Department of Insurance. The overall amount of these awards decreased by 75 percent, from \$415 million to \$93 million.
- The number of medical malpractice cases filed in Philadelphia dropped 58 percent in 2003, as a result of procedural rules changes regarding venues mandated by the state Supreme Court. In 2003, 572 medical malpractice cases were filed in Philadelphia, compared with 1,352 in 2002, according to the Common Pleas Court in Philadelphia.
- Claims about doctors abandoning Pennsylvania are contradicted by official data. The number of Pennsylvania doctors rose 5.6 percent from 1994 to 2002, based on the number of physicians who paid into the state's Mcare fund, the most reliable measure of practicing doctors. This growth rate is 70 percent faster than the state's 3.3 percent overall population growth rate in the 1990s.
- The real malpractice crisis is the fraction of doctors who commit most of the negligence and medical errors. Just 5.3 percent of doctors are responsible for 56 percent of medical malpractice payouts nationally, according to the NPDB. Because of complications with the Mcare fund it is not possible to provide a sufficiently reliable estimate for Pennsylvania, but it is likely the state approximates the national data.
- The cost of medical negligence and errors to Pennsylvania patients and consumers is considerable. Based on Institute of Medicine findings, Public Citizen estimates that there are 1,920 to 4,277 hospital deaths in Pennsylvania each year due to preventable medical errors and the costs to Pennsylvania's residents, families and communities are estimated at \$742 million to \$1.3 billion each year. But the cost of medical malpractice insurance to Pennsylvania's health care providers is about \$683 million a year.

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Public Citizen is a nonprofit consumer advocacy organization based in Washington, D.C., with 5,900 members in Pennsylvania. For more information, visit www.medicalmalpracticefacts.org.