

Diagnosis of the numbers shows doctors not leaving state in droves

A 3-year campaign has demanded caps on malpractice suits and claimed that physicians are going elsewhere. Yet statistics show their ranks here are probably growing.

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HARRISBURG | Pennsylvania doctors are not leaving in droves because of rising malpractice premiums, contrary to their relentless three-year campaign to convince state lawmakers and the public otherwise.

New state government statistics, the first to shed definitive light on a factually murky crisis that has consumed state officials and panicked consumers, show little or no dip in the number of doctors.

And a separate set of previously undisclosed figures – from the Pennsylvania Medical Society itself – indicate there probably are more physicians in Pennsylvania than ever.

The society's statistics disprove the central point of its own aggressive lobbying campaign, one that demanded legal reforms to drive down insurance rates. It prompted lawmakers to give doctors \$230 million in tax dollars annually toward their insurance premiums. Applications for that cash were due in February.

Those applications offer a new way to track the number of physicians.

Two years ago, as doctors first threatened to flee the state because of soaring premiums, there were 35,474 physicians, according to the state Insurance Department.

Now the figure is 34,997. That includes the number of applicants and a separate list of doctors who carried

malpractice insurance at the end of last year but did not apply for the new state aid.

The total does not include an unknown number of doctors who moved to Pennsylvania over the last year, who are missed by Insurance Department record-keeping or who may not know the state has money set aside for them.

Whatever the final tabulation, it's clear doctors – even specialists – aren't staging a mass exodus. All parties agree the new statistics are the most accurate barometer of physician presence in Pennsylvania.

'They publicize the doctors who are leaving, but they never publicize the doctors who are coming in,' said state Senate President Pro Tempore Robert Jubelirer, R-Blair. 'It's scare tactics.'

Confronted with the new state statistics, representatives of the medical society acknowledged that doctors are not abandoning the state in large numbers.

'We never said doctors in general are leaving,' said spokesman Chuck Moran. 'We always said it was high-risk specialists, such as neurosurgeons, ob-gyns, general surgeons and orthopedic surgeons who are leaving.'

Yet the society's own advertisements in 2002 asked: 'Will the last doctor leaving Pennsylvania please turn off the X-ray machine?'

And the head of the Berks County Medical Society this month publicly stated that Pennsylvania lost 1,200 doctors last year alone, mostly because of malpractice insurance rates. It's a claim that has been echoed across the state by doctors for three years.

The state medical society's own statistics – never before disclosed publicly – show a gain of 800 doctors statewide from 2002 to 2003.

'I would be willing to admit up to an 800 physician gain since 2002,' said Steve Foreman, who runs the society's

research department. 'But if we're trading experienced specialists for general practitioners, we have a problem.'

Yet here too state statistics show that the specialists hardest hit by rising medical malpractice rates are not leaving in large numbers.

The number of neurosurgeons, general surgeons, ob-gyns and orthopedic surgeons in 2002 was 4,721, as measured by doctors who paid their insurance premiums. The number of those same specialists who applied in February for the state's relief money: 4,665.

That's a loss of 56 specialists, but even 56 may overstate the situation.

Some specialists are ineligible for the relief money because doctors with three or more losing or settled malpractice lawsuits cannot get it. And specialists are sued more often than other doctors.

So, it's likely that more specialists exist than applied for state money.

Faced with those conclusions, Foreman examined the society's own statistics and discovered a decline of just 16 specialists from 2002 to 2003. He found that the total number of ob-gyns and neurosurgeons increased slightly during that time while the other two groups decreased slightly.

The medical society's figures are based on the number of licensed doctors with Pennsylvania addresses and, while not authoritative, they echo the numbers compiled by state insurance regulators.

'It's clear at this point that the doctors have deliberately misled the public and the Legislature,' said Dan Fee, spokesman for a coalition partly funded by the Pennsylvania Trial Lawyers. 'The question now is whether the Legislature will hold them accountable.'

Regardless, the state will analyze doctor applications for the state money to determine whether any regions of the state are short specialists, said Rosemarie Greco, director of the Office of Health Care Reform.

Doctors nationwide are threatening to leave their states and demanding that lawmakers help them or put patients at risk. Campaigns similar to Pennsylvania's have been fought in a dozen states in the past two months alone.

In Rhode Island, Florida and Washington state, doctors are demanding court reform and a \$250,000 cap on pain and suffering damages – the intangible results of a physician's malfeasance, separate from lost wages and medical costs – or they'll leave.

A state Senate committee in Maryland voted down a bill that would reduce pain and suffering caps there from \$635,000 per case to \$350,000. Doctors, predictably, claimed they were being driven from that state, making it harder for patients to find physicians.

Wyoming doctors took out a full-page ad in the Casper Star Tribune that stated: "The doctor is out... of Wyoming; There is a medical care crisis looming in Wyoming! Will your doctor be here next year?"

Chicago doctors descended on Washington, D.C., demanding a federal cap on all medical malpractice pain and suffering awards, and pleaded with Congress to "prevent the Illinois MD exodus."

If doctors are leaving so many states, where are they all going?

"They're all going to the Cayman Islands, or Bermuda," joked Mark Phenicie, a lobbyist for the Pennsylvania Trial Lawyers. "This is a very well-orchestrated campaign, state by state. Their polling shows their claims work, especially on seniors."

In Pennsylvania, 78 percent of residents say they are very or somewhat concerned they could lose access to medical care because of malpractice insurance rates, according to a recent Morning Call/Muhlenberg College poll.

After setting malpractice rates artificially low to gain customers, insurance companies were forced several years ago to raise them to offset investment losses when the stock market crashed. Doctors were hit with dramatic premium increases starting late in 2001 that indeed forced some to leave, retire or reduce practice hours.

The medical society and a group called Politically Active Physicians Association – styling itself as 'The Fighting Docs' – tapped very real fears and emotions for its statewide lobbying campaign.

From the start, the effort's rhetoric exceeded tangible proof of any exodus. Anecdotal evidence, meanwhile, piled up and was put into play by the doctors' lobby. Lawyers were fingered as scapegoats and blamed for bringing frivolous lawsuits.

Doctors urged patients to lobby lawmakers, launched an expensive advertising campaign, appeared at rallies, threatened to walk off their jobs and used the threat of leaving to pressure the Legislature into a bailout.

In mid-2002, lawmakers passed court reforms aimed at curtailing lawsuits against physicians. They added a 25-cent tax to each pack of cigarettes, producing \$230 million for last year and this year. The money has yet to be distributed because the applications are being processed. Gov. Ed Rendell wants the payments extended another three years at least.

Doctors still are demanding a cap of \$250,000 on pain and suffering awarded by juries. If they don't get it, they promise to continue to leave the state, crimping patient access to health care. The state Senate passed such a cap last month. The House is considering it.

Besieged lawmakers and others close to the issue of departing doctors – sensing much more rhetoric than reality – have tired of the game. Even those who support doctors chafe under the pressure to solve a complex problem quickly.

'I go home and I'm constantly getting hammered by doctors,' said Sen. Allen Kukovich, D-Westmoreland. 'I think even if we gave them a cap, they'd be back asking for more, asking for immunity from all lawsuits. I mean, if I'm a doctor, how dare anyone try to sue me? That seems to be the attitude.'

State Sen. Lisa Boscola, D-Northampton, in February received e-mail from a Monroe County doctor who demanded

she vote for capping jury awards or he'll mobilize political opposition to challenge her re-election.

'I don't think you realize, we as individual doctors see over 100 patients per week, and our patients trust us, for the most part,' the doctor wrote. 'We do have the ability to potentially give your next campaign a shot in the arm, or a shot somewhere else. You choose! We are watching the way you vote...'

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