

Falling Claims and Rising Premiums in the Medical Malpractice Insurance Industry

A new study of medical malpractice insurers entitled “Falling Claims and Rising Premiums in the Medical Malpractice Insurance Industry” has found that insurance companies have been price-gouging doctors by drastically raising their insurance premiums, even though claims payments have been flat, or in some cases decreasing.

Key Findings

The study, conducted by former Missouri Insurance Commissioner Jay Angoff for the Center for Justice and Democracy, a consumer advocacy organization, compiled data from the 2004 annual reports of the 15 largest insurance companies, which are filed under oath with state insurance departments. According to the insurance companies’ own numbers:

- Over the last five years, the amount malpractice insurers have collected in premiums has increased by 120%, while claims payouts have remained essentially flat (increase <6%).
- During this time, the insurers’ projected future claims payments were decreasing.
- Leading insurers increased their surpluses by a third – to a level far above what is recommended by the National Association of Insurance Commissioners.

Reaction from Attorneys General and Insurance Commissioners Throughout the Country

“The data in the Annual Statements filed under oath with state insurance departments, which this Report discloses, call into question much of what the medical malpractice insurance industry has been saying publicly during the past several years. There is no excuse for malpractice insurers doubling their rates while their claims payments decrease.”

-Missouri Attorney General Jay Nixon

“[The numbers in the study] cast a completely different picture than the public or many public officials have assumed. Clearly the numbers underscore the need for much tougher and much more aggressive oversight to prevent and punish profiteering. Insurance company greed can be hazardous to our health.”

-Connecticut Attorney General, Richard Blumenthal

“We are definitely disturbed by the numbers in this report, which offers evidence that doctors may be paying excessive premiums. If these carriers truly have loss ratios that are this low and yet they are still increasing rates, one has to wonder if they're gouging.”

-Michigan Office of Financial and Insurance Services Commissioner Linda A. Watters

“Doctors and consumers deserve to see the facts behind the *true* crisis, which is that insurance companies are price-gouging their doctors, not an explosion in claims.”

-J. Robert Hunter, Director of Insurance for the Consumer Federation of America and a former Texas Insurance Commissioner and Federal Insurance Administrator.

“Without insurance industry reform, we won't see a significant drop in premiums.”

-Bonnie Bowles, Executive Director, Missouri Association of Osteopathic Physicians and Surgeons

What Does This Mean?

- The medical malpractice insurance crisis is a product of egregious and unethical price gouging by the malpractice industry.
- This study proves that the insurance industry has been lying to doctors and lying to the public.
- While medical malpractice insurance premiums have more than doubled, actual claims paid have remained flat. Even industry projections of claims they plan to pay out in the future – their justification for higher premiums – have decreased.
- Insurance companies manufactured a “crisis” through a calculated and aggressive effort of egregious price-gouging all to exploit the situation as reason for eliminating basic rights and just compensation for injured health care consumers.
- The insurance industry is paying millions of dollars to corporate lobbyists to eliminate protections for victims of medical negligence by imposing caps, but study after study has shown caps do not lower insurance premiums.
- The industry’s record-setting profits say it all. They have the money and the power to lower medical malpractice insurance rates but instead have chosen a campaign of deception and fraud to protect their bottom line.

Dubunking the Insurance Industry’s Claims

Insurance Industry Says:

It is unfair to compare the premiums that insurance companies charge with claims paid, because it often takes 8 to 10 years for the claims to materialize, so companies have to set aside extra reserves.

The Truth Is:

The industry’s own numbers show they project a decline in payouts. Projected claims have to be based on something, and for the last five years payouts have been constant.

Insurance Industry Says:

Premiums are rising because of larger jury awards that force insurers to settle more cases.

The Truth Is:

What does it matter? Total payouts remained constant – increasing by less than 6% in five years. And according to the Physicians Insurers Association of America’s own data, the percentage of cases settled has dropped from 32% in 2001 to 22.5% in 2004.

Insurance Industry Says:

Caps will lower premiums.

The Truth Is:

This is counter-intuitive and empirically disproven. Indeed, premiums in states without caps are actually 9.8% lower than those with caps. After California, Mississippi, Nevada, Ohio, Oklahoma, and Texas passed caps, insurers in those states continued to raise rates. If rising claims aren’t the cause of premium hikes, then why would limiting compensation for victims lower rates? Take it from the industry itself. Lawrence Smarr, president of PIAA, admitted to the Detroit News (7/8/05) that premiums are in part rising to make up for lost investment income. Dennis Kelly of the American Insurance Association has said, “We have not promised price reductions with tort reform.” [Chicago Tribune, 1/3/05]

Selected Clips:

Insurance greed blamed for doctors' egress

Connecticut Post, July 8, 2005

HARTFORD - Malpractice premiums for most state doctors rose 213 percent over the last five years, but awards to harmed patients decreased 1.6 percent, Attorney General Richard Blumenthal charged Thursday.

Blumenthal said that has led to higher costs for patients while generating exorbitant profits for insurance companies, conditions that are driving doctors out of Connecticut.

It's part of a nationwide trend of soaring premiums and diminishing awards found in a study of the insurance industry, according to the former Missouri state insurance commissioner who completed the investigation.

[...]

Blumenthal said he believes the study will "recast" the national debate on malpractice reform, which has portrayed insurers as "innocent bystanders" passing along the costs of excessive judgments in malpractice suits.

Study: Malpractice rates climb while payouts decline

Detroit News, July 8, 2005

Rates for malpractice are soaring even as insurance companies are paying less money to settle claims, according to a study released Thursday by a consumer advocacy group.

[...]

The new study from New York-based Center for Justice & Democracy found that major malpractice insurers collected more than twice as much in premiums between 2000 and 2004, while the money they paid in claims rose less than 6 percent. The group contends the difference has allowed the nation's leading insurers to increase their surpluses by more than a third in just a few years.

"There's no rational basis for these rates," said Jay Angoff, a study consultant and former state insurance commissioner of Missouri. "Their losses are going down and their premiums are going up. It's a great business to be in."

Study contends malpractice insurers gouging

The Kansas City Star, July 8, 2005

Between 1991 and 2003, payments made on behalf of physicians grew an average of 4 percent a year nationwide, according to a study in the journal *Health Affairs*. The large jury awards that attract public attention were rare and didn't contribute significantly to overall malpractice costs, the researchers found.

A separate study in the *Journal of Empirical Legal Studies* looked in depth at 15 years of Texas data and reached a similar conclusion that the size and number of claims have remained stable.

"We found a steady upward trend in award amounts that I would regard as predictable," said one of the researchers, William Sage, a doctor and lawyer on the faculty of the Columbia Law School. "What we didn't find was any sudden epidemic of malpractice litigation. We didn't find any evidence of juries or lawyers out of control."

Malpractice insurers are inflating rates, study says

St. Louis Post-Dispatch, July 7, 2005

A new study by Missouri's former top insurance regulator concludes that insurers are vastly overcharging physicians for malpractice premiums.

Doctors readily agree they are being overcharged. Many blame juries in malpractice cases for causing the cost of insurance to go so high that some physicians have gone out of business.

Jay Angoff blames insurance companies.

His study found that medical malpractice insurers paid out just 30 cents of every dollar that doctors paid in premiums last year.

"That is shockingly low," said Angoff, an attorney who was Missouri insurance commissioner from 1993 to 1998.

[...]

The study used financial statements the insurers filed under oath with state regulators. "All of the other stuff you hear about, none of it is under oath," Angoff said.

Study Says Malpractice Payouts Aren't Rising

New York Times, July 7, 2005

The high price of medical malpractice insurance is a notoriously nebulous and highly politicized subject. Insurers and doctors contend that the insurance is more expensive because of a surge in jury awards and settlements. Consumer advocates and their political allies assert that insurers have raised rates because they can, arguing that insurers' claims have slowed significantly while premiums have shot up.

A study to be released today by the Center for Justice and Democracy, a consumer advocacy group in New York, may add fuel to that debate. The study, compiled from regulatory filings by insurers to state regulators, finds that net claims for medical malpractice paid by 15 leading insurance companies have remained flat over the last five years, while net premiums have surged 120 percent.

From 2000 to 2004, the increase in premiums collected by the leading 15 medical malpractice insurance companies was 21 times the increase in the claims they paid, according to the study. (The net totals in the study are calculated after accounting for reinsurance.)

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Malpractice insurers are inflating rates, study says

St. Louis Post-Dispatch, July 7, 2005

Study Says Malpractice Payouts Aren't Rising

New York Times, July 7, 2005

MALPRACTICE INSURANCE: Study finds payouts rose 5.7%, but rates for doctors up 120%

The Chicago Tribune, July 8, 2005

Malpractice rates, not payouts, rising

The Cincinnati Post, July 8, 2005

Study: Insurers are overcharging doctors

The Washington Times, July 8, 2005