

AMA-RFS Issue Brief

Medical Liability Reform

Each year our broken medical liability system drains between \$70 and \$126 billion dollars from the health care system because of the need to practice defensive medicine. A recent American Medical Association (AMA) survey revealed that nearly 61% of physicians age 55 and over have been sued. And before they reach the age of 40, more than 50 percent of obstetricians/gynecologists have already been sued. Even though the vast majority of claims are dropped or decided in favor of physicians, one survey shows that the fear of meritless lawsuits has forced 79% of physicians to practice defensive medicine. In addition, medical liability premiums have risen so much in certain states that physicians are being forced to limit services or close their practices altogether.

At the AMA's urging, the Obama Administration acknowledged the need for medical liability reform in 2009. In June 2010, \$25 million in grants were awarded to states and health systems for the exploration of new medical liability reform models – innovative initiatives such as health courts and early offer programs. The Affordable Care Act authorizes the Secretary of Health and Human Services (HHS) to award additional, new grants to test alternative liability reforms.

EXAMPLES OF PROVEN REFORMS: CALIFORNIA AND TEXAS

States like California and Texas have successfully enacted meaningful medical liability reforms, including strong caps on non-economic damages, while others have tried alternative routes to reduce the cost of defensive medicine and eliminate unnecessary litigation from the system.

In California, the Medical Injury Compensation Reform Act (MICRA) has stabilized medical liability premiums. According to the NAIC, while total premiums in the rest of the US rose close to 1000% between 1976 and 2008, the increase in California premiums was less than one third of that amount. All major physician liability carriers in Texas have cut their rates since the passage of reforms in Texas in 2003, most by double-digits. 90% of Texas physicians have seen their rates reduced 30% or more. Research shows that over the long term, patients have greater access to physicians in areas with liability reforms than in those without.

THE AMA'S POSITION

The AMA has consistently supported comprehensive medical liability reform legislation at the federal and state levels and has pushed for caps on non-economic damages, among other proven solutions.

WHAT YOU CAN DO

- Communicate your concerns about the need for effective medical liability reforms, like the ones enacted in California and Texas, to your Congressional representatives.
- Get involved with the AMA-RFS Legislative Advocacy Committee and join the RFS listserv.
- Donate to AMPAC and support candidates who are working to solve the liability crisis.
- Visit: <http://www.ama-assn.org/ama/rfs>

(1) The Patient Protection and Affordable Care Act, Public Law 111-148, 124 Stat. 119-1025, March 23, 2010, <http://www.gpo.gov>. The key liability provisions appear in Title X, Subtitle F. (2) Health Resources and Services Administration, —The Health Center Program: Federal Tort Claims Act, <http://bphc.hrsa.gov/ftca/>. (3) R. A. Berenson, J. Holahan, L. J. Blumberg, R. R. Bovbjerg, T. Waidmann, A. Cook, and A. Williams, —How We Can Pay for Health Care Reform (Princeton, NJ: Robert Wood Johnson Foundation, 2009), <http://www.rwjf.org/files/research/46492full.pdf>. (4) *Medical Liability Reform and Patient Safety: Demonstration Grants*. June 2010. Rockville, MD: Agency for Healthcare Research and Quality. <http://www.ahrq.gov/qual/liability/demogrants.htm>. (5) *AMA Policy Finder* (6) <http://www.aaos.org/news/bulletin/jul07/reimbursement3.asp>