



THE MEDICAL LIABILITY CRISIS AND THE LITIGATION EXPLOSION

" ... there is a real possibility that the filing of frivolous malpractice lawsuits that should not be filed could be contributing to this. "

The filing of meritless cases " results in clogging up the courts, results in increased costs and it means that people who should never have been brought into court are brought into court. "
– Senator John Edwards, ABC's This Week, 1/5/03

Too Many Meritless Lawsuits In Tort-Friendly States

Across the nation, doctors are facing staggering increases in medical liability premiums – if they can find coverage at all. The reason? The rising number of meritless lawsuits filed each year and the concentration of those cases in tort-friendly states.

- From 1996-2000, the number of medical liability claim payments rose 5% nationwide. Yet the real problem is not the absolute number of claims ... it's that claims are increasingly concentrated in tort-friendly states. During that same 5-year period, some states saw astronomical increases – from 40-97% -- in the number of medical liability claim payments. (*National Practitioner Data Bank, 2000 Annual Report*)
- Nearly 6 out of 10 Americans believe the number of lawsuits against physicians is too high, compared to just 13% who believe there are too few. (*Gallup poll, National Journal.com, February 5, 2003*)
- The average OB can expect to be sued roughly three times in her career. While more than half of all claims against ob/gyns are dropped or settled without payment, fighting lawsuits costs doctors and insurers time and money. (*Self Magazine, April 2002*)

Most Suits Are Meritless ... But Still Expensive

The facts show that most medical liability cases – at least 6 out of 10 – are completely meritless. Yet even cases that are dismissed outright or dropped by the plaintiff require years and tens of thousands of dollars to defend.

- Sixty-seven percent of all cases filed are found to be without merit and result in no payment to the plaintiff. (*Physician Insurers Association of America*)

- Only about 7% of all medical liability claims ever come to trial. More than 80% of those cases that go to trial are won by the defendant. *(Physicians Insurers Association of America, December 9, 2002)*
- Even though the vast majority of medical liability cases never come to trial, it costs an average of \$24,669 to defend each claim. *(U.S. Department of Health and Human Services, July 24, 2002)*
- Just the threat of a lawsuit – a lawyer requesting medical files – can drive up a doctor's insurance premiums, even if a case is never filed. *(Tampa Tribune, December 19, 2001)*

Jury Verdicts Skyrocketing

The prospect of lottery-sized jury awards encourages personal injury lawyers to file meritless claims, driving up medical liability premiums for doctors and health care costs for patients.

- In 1985, less than one out of every 100 medical liability claims resulted in payments at or exceeding \$1 million. Today, nearly one in 8 payments is at or over \$1 million. *(Physicians Insurers Association of America, December 9, 2002)*
- Between 1996 and 1999, the average jury award in medical liability cases jumped 76%. *(U.S. Department of Health and Human Services, July 24, 2002)*
- Between 1817 and 1995, Mississippi juries handed out \$1 million awards in less than 50 cases. Since 1995, they've done it more than 100 times. *(American Medical News, January 7, 2002)*
- In 1997, only two medical liability verdicts topped \$20 million. In 2001, at least 12 went above \$20 million and three exceeded \$100 million, including a \$269 million judgment. *(Miami Herald, February 3, 2002)*

The Explosion Of Meritless Litigation And Skyrocketing Jury Awards Are Causing Rising Medical Liability Premiums, Driving Up Health Care Costs and Limiting Patients' Access To Care.