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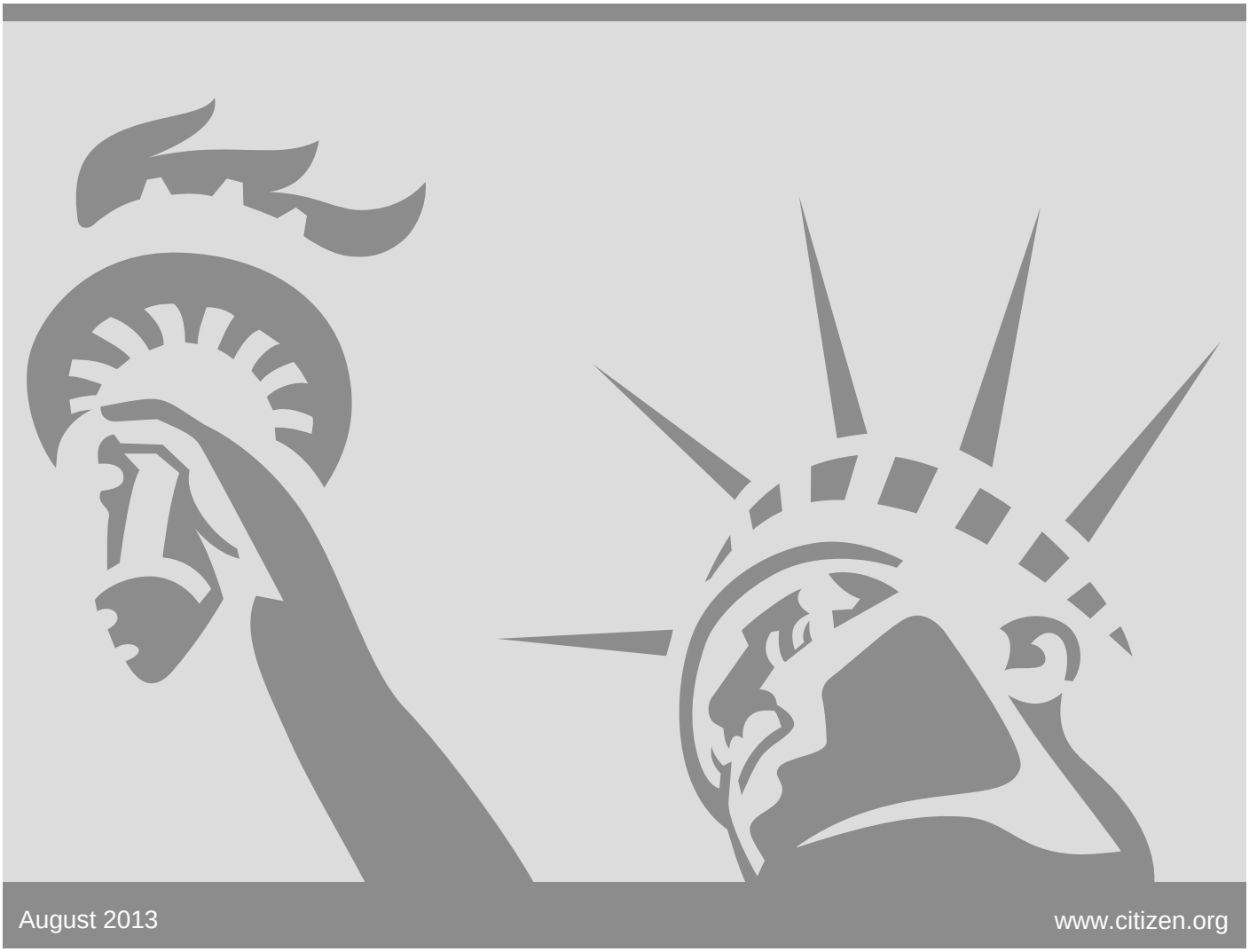

August 2013

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No Correlation

Continued Decrease in Medical Malpractice Payments Debunks Theory That Litigation Is to Blame for Soaring Medical Costs

Acknowledgments

This report was written by Taylor Lincoln, Research Director for Public Citizen's Congress Watch division.

About Public Citizen

Public Citizen is a national non-profit organization with more than 300,000 members and supporters. We represent consumer interests through lobbying, litigation, administrative advocacy, research, and public education on a broad range of issues including consumer rights in the marketplace, product safety, financial regulation, safe and affordable health care, campaign finance reform and government ethics, fair trade, climate change, and corporate and government accountability.

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Contents

I. Introduction

A decade ago, medical malpractice payments reached their highest level since the government began tracking such data in 1990. Critics blamed litigation for soaring health care costs and even for the ongoing problem of millions of Americans lacking health insurance.

President George W. Bush designated overhauling the medical malpractice litigation system as one of his signature issues. Meanwhile, Republican members of Congress elevated legislation to limit injured patients' avenues of redress (chiefly by capping damages awards) to the top of their agenda, where it has remained ever since.

Rep. John Boehner (R-Ohio), now the Speaker of the House, claimed at the height of the debate over health care reform in 2010 that "medical malpractice and the defensive medicine that doctors practice" was the "biggest cost driver" in all of medicine.[1] In 2012, Senate Minority Leader Mitch McConnell (R-Ky.) included "lawsuit reform" as one of only two ideas he proffered in his bid to replace the Affordable Care Act, the health care reform bill that Congress passed in 2010.[2]

Federal legislation imposing restrictions on medical malpractice litigation has not passed, although caps on damages are in place in nearly 30 states.[3] But the chief objective of those seeking restrictions—namely reducing litigation and malpractice payments—has been realized.

Since 2003, both the frequency of medical malpractice payments on behalf of doctors and the amount of money paid out have fallen every single year, according to the government's National Practitioner Data Bank (NPDB), which tracks such payments. In 2012, the number of payments fell to the lowest level on record, setting a new record low for the sixth consecutive year. After adjusting for inflation, last year marked the third straight year that the cumulative value of malpractice payments fell to their lowest level on record.

If payments are adjusted for inflation using a blend of the consumer price index and the medical services index (a sensible methodology because roughly half of the value of malpractice awards compensates for future medical costs), 2012 marked the sixth consecutive year that payments sunk to a new all-time low. Even if one looks at actual dollars (i.e., with no consideration for inflation), payments in 2012 were the lowest since 1998.

[1] Rep. Boehner's comments during televised summit to debate health care legislation (Feb. 25, 2010), http://bit.ly/o0UGdt.
[2] FOX NEWS SUNDAY (July 1, 2012), http://fxn.ws/15mTI23.
[3] *See, e.g.*, *Caps on Damages*, AMERICAN MEDICAL ASSOCIATION (2011), http://bit.ly/olDxiK.

The reduced litigation, most likely caused by state-based tort restrictions, has no doubt prevented many malpractice victims from receiving just compensation.

Meanwhile, the dividends promised by those pushing litigation restrictions, such as cheaper overall health care, have not remotely been realized. Since 2003, medical malpractice payments have fallen 28.8 percent. If medical malpractice litigation were truly the "biggest cost driver" in medicine, then declining payments should have pulled overall health care costs down. But the nation's health care bill has risen 58.3 percent since 2003. If health care costs followed the trajectory of litigation trends since 2003, our national health care bill in 2012 would have been $1.3 trillion. Instead, it was $2.8 trillion.

The divergence between health care costs and medical malpractice litigation affirms what critics of imposing malpractice litigation restrictions have said all along: That litigation is not to blame for rising costs or inadequate access to care.

The amount of money paid out in malpractice payments never provided support for the argument that litigation was the culprit. Even at their high water point, actual payments amounted to just 0.25 percent (one-fourth of 1 percent) of overall health care costs. If one considers the cumulative cost of malpractice insurance premiums, which encompass the costs of defending lawsuits and the profits and overhead of liability insurance providers, only 0.62 percent of overall health care costs could be attributed to litigation in 2003, when the dollar value of insurance payments peaked. Liability insurance premiums in 2012 fell to 0.36 percent of national health care costs, the lowest level in the past decade.

Rather than focus on actual expenditures, those who continue to demonize litigation have clung to the theory of defensive medicine, which holds that physicians' fears of lawsuits prompt them to order rafts of unnecessary tests and procedures.

In a given snapshot of time, the defensive medicine theory defies conclusive evaluation because it ultimately rests on divining the private thoughts underlying doctors' decisions. But broad trends over time provide convincing evidence that the defensive medicine theory is essentially bogus. If litigation fears truly prompt unnecessary tests and procedures, then the volume of care rendered should be declining in sync with diminished litigation risk. This thinking is at the heart of the argument for imposing caps on malpractice awards. But, as illustrated above, costs have marched upward while litigation risk has declined. Increased volume of care, including testing, is almost certainly a key reason for the increased costs.[4]

[4] *See*, *e.g.*, TAYLOR LINCOLN, PUBLIC CITIZEN, A FAILED EXPERIMENT HEALTH CARE IN TEXAS HAS WORSENED IN KEY RESPECTS SINCE STATE INSTITUTED LIABILITY CAPS IN 2003 (October 2011), http://bit.ly/nFbxoL. (See Figure 3. Per patient Medicare diagnostic testing expenditures were up 65.9 percent from 2003 to 2008.)

The fallacy of the defensive medicine theory is perhaps most plainly exposed when one examines developments in Texas, which in 2003 enacted one of the most restrictive litigation laws in the country. Between 2003 and 2010, malpractice payments in Texas fell by nearly 65 percent, but health care costs in the state (especially concerning Medicare diagnostic testing expenditures) rose far faster than the national average, as Public Citizen reported in 2011.[5] A study published by the *Journal of Empirical Legal Studies* in June 2012 provided support for Public Citizen's conclusion that the Texas tort limitations have not saved money. "In sum, no matter how we slice the data, we find no evidence that the Texas 2003 tort reforms 'bent the cost curve' downward," the authors concluded.[6]

The leaders of physician groups in Texas now say that they never claimed that litigation restrictions would help corral costs.[7] In fact, they did. The group that led the campaign for the restrictions distributed literature promising that they would deliver "lower costs and more security in our health care system."[8] What's most significant today is that physicians in Texas—which is often cited as Exhibit A by supporters of tort restrictions—now disagree with the proposition that medical malpractice limitations are key to controlling costs.

Those truly looking to stem health care costs should look elsewhere. This report reviews the 2003 and 2013 pay for physicians in six specialties (Anesthesiology, Cardiology (noninvasive), General Surgery, Internal Medicine, Ob-Gyn and Radiology) as chronicled by *Modern Healthcare* in its annual doctors' compensation survey. Practitioners of these specialties have seen their pay rise from 24.3 percent (ob-gyn) to 82 percent (radiology) over this time period.[9] For all specialties but one, pay raises have exceeded inflation. Likewise, *Modern Healthcare* reports that compensation for health care system CEOs rose at more than twice the rate of inflation from 2003 to 2012 (to over $1.1 million annually, on average).[10] Pay increases for chief medical officers and chief financial officers also far outpaced inflation. These figures suggest that financial incentives, not litigation or the fear of it, provide a far more plausible explanation for soaring costs.

[5] TAYLOR LINCOLN, PUBLIC CITIZEN, A FAILED EXPERIMENT HEALTH CARE IN TEXAS HAS WORSENED IN KEY RESPECTS SINCE STATE INSTITUTED LIABILITY CAPS IN 2003 (October 2011), http://bit.ly/nFbxoL. (Payments in Texas declined an additional 12 percent from 2010 to 2011.)
[6] Myungho Paik, Bernard S. Black, David A. Hyman and Charles Silver, *Will Tort Reform Bend the Cost Curve? Evidence from Texas,* 9 JOURNAL OF EMPIRICAL LEGAL STUDIES 173, 175-76 (2012), http://bit.ly/M9hCR1.
[7] Mary Ann Roser, *New Study: Tort Reform Has Not Reduced Health Care Costs in Texas*, AUSTIN AMERICAN-STATESMAN (June 20, 2012), http://bit.ly/MksVsK.
[8] *Id.*
[9] *Fevers and Chills*, MODERN HEALTHCARE (July 21, 2003) and *Healthy Gains*, MODERN HEALTHCARE (July 15, 2013).
[10] *Perking Up*, MODERN HEALTHCARE (Aug. 4, 2003) and *Payday for Payers*, MODERN HEALTHCARE (Aug. 13, 2012).

Critics obsessed with medical malpractice litigation always have ignored the underlying problem: the scourge of avoidable medical errors that lead to court cases. Contrary to claims that the bulk of litigation is "frivolous," more than 80 percent of money paid out in damages compensates for harms categorized in the government's database as significant permanent injuries; major permanent injuries; quadriplegia, brain damage or the need for lifelong care; or death.

Moreover, the number of harms caused by medical errors dwarfs the number of medical malpractice payments. In 1999, the prestigious Institute of Medicine (IOM) concluded that between 44,000 and 98,000 patients were dying every year because of avoidable medical errors.[11] Several more recent studies have reached conclusions at least as shocking as the IOM's. There were only 14,942 medical malpractice payments in 1999 for all types of harms, not just those resulting in death. The number of payments fell to 9,379 in 2012.

Litigation is, in itself, an insufficient answer for the epidemic of avoidable medical errors. No damages award can compensate for death or a debilitating lifelong condition, and most victims of negligence do not receive any damages award at all. But awards do provide a semblance of compensation for some victims and, vitally, offer a means for some victims to pay for the future medical care that they are forced to rely upon.

Litigation also imposes accountability and has a record of encouraging beneficial changes. Findings resulting from litigation have prompted authorities to strip dangerous doctors of their licenses to practice, thus protecting patients from future risks. Litigation also has spurred sweeping systemic changes. The field of anesthesiology, for instance, was at one time complicit in rampant fatalities. As a result of litigation and bad publicity, the profession adopted reforms. Between the mid-1980s and 2005, the frequency of deaths involving anesthesiology dropped from about 1 in 5,000 to less than 1 in 200,000.[12]

Abundant additional opportunities for sensible reforms exist. Public Citizen reported in 2009 on a corpus of proven safe practices that were documented in peer-reviewed journals.[13] These methods, as simple as using checklists for surgical procedures and taking common sense steps to prevent bed sores, would save an estimated 85,000 lives and $35 billion a year if implemented nationwide.

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[11] TO ERR IS HUMAN: BUILDING A SAFER HEALTH CARE SYSTEM, INSTITUTE OF MEDICINE (1999), http://bit.ly/jfQLrX and National Practitioner Data Bank. (In 1999, 14,943 medical malpractice payments were made on behalf of doctors.)

[12] JOSEPH T. HALLINAN, *Once Seen as Risky, One Group of Doctors Changes Its Ways*, THE WALL STREET JOURNAL (JUNE 21, 2005), http://on.wsj.com/18ZjLLQ. *See also*, BAIRD WEBEL, VIVIAN S. CHU AND DAVID NEWMAN, CONGRESSIONAL RESEARCH SERVICE, MEDICAL MALPRACTICE: BACKGROUND AND LEGISLATION IN THE 112TH CONGRESS (May 18, 2011), http://bit.ly/17jEy9C.

[13] ZACHARY GIMA, PETER GOSSELAR, ALAN LEVINE, TAYLOR LINCOLN AND ANNETTE RAMIREZ, PUBLIC CITIZEN, BACK TO BASICS (Aug. 6, 2009), http://bit.ly/aMiL1.

Members of Congress who are intent on serving the interests of their constituents should turn their attention to implementing recognized safe practices and marshaling resources to identify others instead of wasting their energy in a quest to prevent victims from obtaining just redress.

II. Data Findings Summary

The Number of Malpractice Payments on Behalf of Doctors in 2012 Was the Lowest on Record. The number of malpractice payments made on behalf of physicians fell for the ninth consecutive year in 2012, plummeting to the lowest annual total since the creation of the National Practitioner Data Bank (NPDB), which has tracked medical malpractice payments since the fall of 1990.

The Inflation-Adjusted Total Value of Payments Made on Behalf of Doctors in 2012 Was the Lowest on Record. The cumulative value of malpractice payments in 2012 was the lowest in the history of the NPDB if adjusted for inflation by either the consumer price index (CPI) or the medical services index. Even in unadjusted dollars, payments fell for the ninth straight year in 2012 and were at their lowest level since 1998.

Medical Malpractice Payments' Share of the Nation's Total Health Care Bill Was the Lowest on Record in 2012. Medical malpractice payments on behalf of doctors accounted for just 0.11 percent of national health care costs last year.

Total Costs for Medical Malpractice Litigation, as Measured By Liability Insurance Premiums Paid by Doctors and Hospitals, Were the Lowest in 2012 Since 2003 (the earliest year for which Public Citizen was able to obtain the relevant data). Liability insurance premiums provide a broad estimate of malpractice litigation costs. Besides payments to victims, they cover litigation defense costs, liability insurers' profits, and insurers' administrative costs. Such costs fell in 2012 to just 0.36 of 1 percent of national health care expenditures.

Four-Fifths of Medical Malpractice Awards Compensate for Death, Catastrophic Harms or Serious Permanent Injuries. Despite claims by those seeking to reduce patients' legal rights that medical malpractice lawsuits are largely "frivolous," the vast majority of payments compensate for extremely serious harms. More than four-fifths (81 percent) of the money paid for medical negligence in 2012 compensated victims or their surviving family members for harms defined by the NPDB as significant permanent injuries; major permanent injuries; quadriplegia, brain damage, or injuries requiring lifelong care; or death. The latter two categories (quadriplegia, brain damage, or injuries requiring lifelong care; and death) accounted for 43 percent of the dollars spent to compensate victims of medical malpractice.

Declines in Litigation Do Not Translate Into Lower Costs for Consumers. Between 2003 and 2012, the value of medical malpractice payments fell 28.8 percent while national health care spending rose 58.3 percent (both calculations in unadjusted dollars). The decline in malpractice payments debunks claims that medical malpractice litigation is responsible for rising health care costs.

There Is No Evidence That the Decline in Medical Malpractice Payments Is Due to Safer Medical Care. For years, observers of health care safety issues referred to the 1999 Institute of Medicine (IOM) report, "To Err Is Human," for guidance on the prevalence of medical errors. That study concluded that 44,000 and 98,000 patients were dying every year because of avoidable medical errors. That conclusion meant that several times as many people were dying from medical errors as the total number of patients receiving compensation for medical malpractice.[14]

In 2010 and 2011, three major studies reached conclusions on medical errors at least as shocking as those in the IOM report:

- The inspector general for the Department of Health and Human Services (HHS) in 2010 concluded that one-in-seven Medicare patients in hospital care experienced a serious adverse event, that these adverse events contributed to the deaths of 1.5 percent of patients, and that 44 percent of the adverse events were preventable. (The Centers for Medicare and Medicaid Services defines an adverse event as an "untoward, undesirable, and usually unanticipated event that causes death or serious injury, or the risk thereof.)[15]) These findings translate to more than 700,000 Medicare patients experiencing a serious, preventable, outcome every year, including nearly 80,000 suffering preventable adverse events that contribute to their deaths.[16]

- A 2010 study of patients treated in North Carolina hospitals found that 18 percent suffered adverse events and that 63 percent of these harms were avoidable. Of the adverse events, 2.4 percent caused or contributed to a patient's death.[17]

[14] TO ERR IS HUMAN: BUILDING A SAFER HEALTH CARE SYSTEM, INSTITUTE OF MEDICINE (1999), http://bit.ly/jfQLrX and National Practitioner Data Bank. (In 1999, 14,942 medical malpractice payments were made on behalf of doctors.)
[15] *Quality Assessment and Performance Improvement (QAPI) Programs*, CENTERS FOR MEDICARE AND MEDICAID SERVICES (Sept. 8, 2010), http://go.cms.gov/18Zo3Dd.
[16] ADVERSE EVENTS IN HOSPITALS: NATIONAL INCIDENCE AMONG MEDICARE BENEFICIARIES, HEALTH AND HUMAN SERVICES OFFICE OF INSPECTOR GENERAL (NOVEMBER 2010), http://1.usa.gov/aESs3Y.
[17] Christopher P. Landrigan *et al.*, *Temporal Trends in Rates of Patient Harm Resulting from Medical Care*, 363 NEW ENGLAND JOURNAL OF MEDICINE 2134 (2010), http://bit.ly/dQnfpf.

- An April 2011 study published in *Health Affairs* concluded that errors or adverse events occur in nearly one-in-three hospital admissions. Donald M. Berwick, then the administrator of the Centers for Medicare and Medicaid Services (CMS), said the *Health Affairs* study "raised the stakes by finding … that the number of adverse events could be 10 times greater than we originally thought."[18]

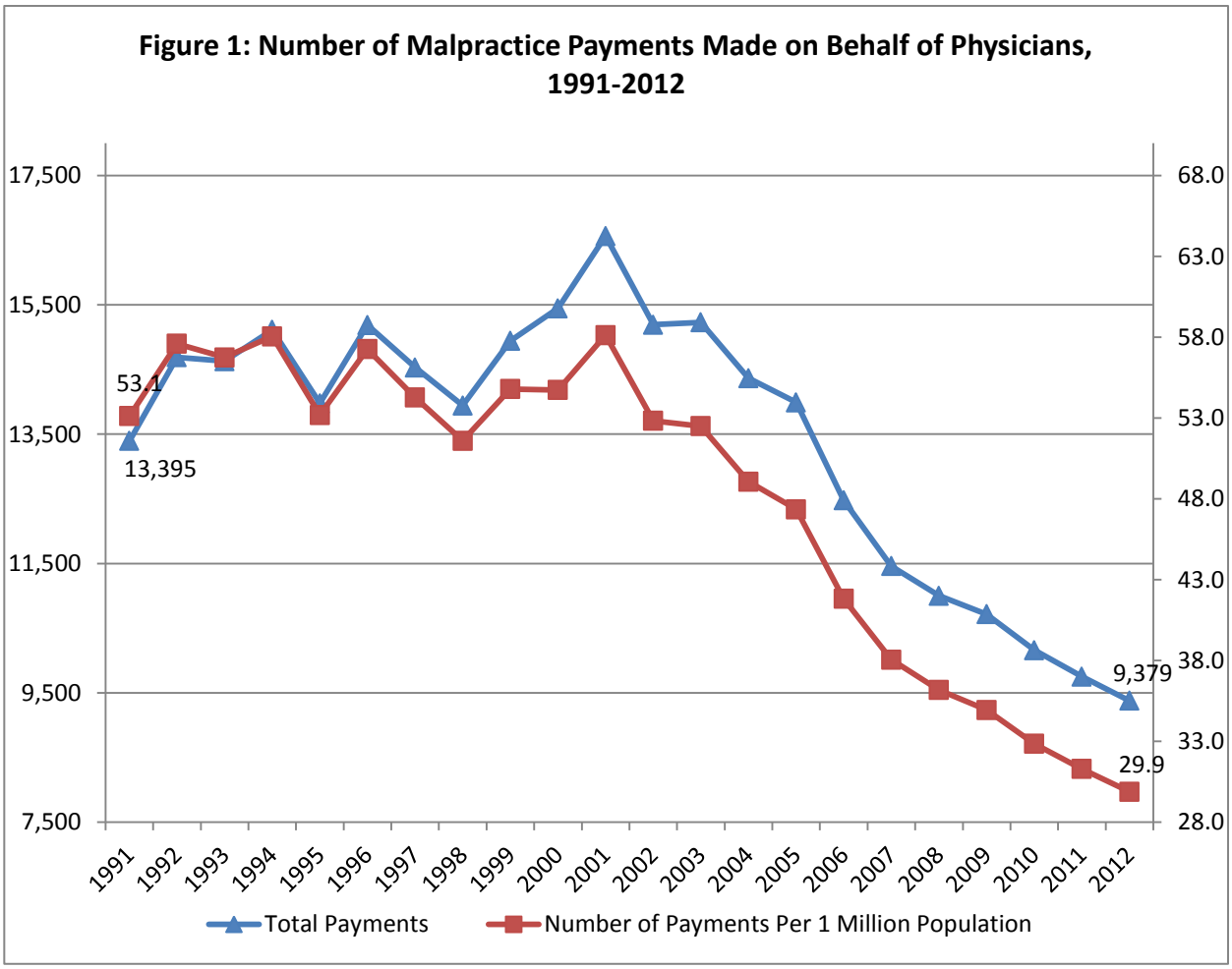
[18] David C. Classen et al., *Global Trigger Tool Shows that Adverse Events In Hospitals May Be Ten Times Greater than Previously Measured*, 30 HEALTH AFFAIRS 581 (2011), http://bit.ly/eGgg0G and Chris Flemming, *Sebelius and Berwick Highlight HA Study at Patient Safety Initiative Launch*, HEALTH AFFAIRS BLOG (April 12, 2011), http://bit.ly/eaNDeq.

III. Data Analysis

The Number of Medical Malpractice Payments On Behalf of Doctors in 2012 Was the Lowest on Record

The number of malpractice payments made on behalf of doctors fell 3.8 percent from 2011 to 2012, marking the ninth consecutive year that the number of payments has fallen. The number payments in 2012 was 43.4 percent lower than in 2001, the year in which the most medical malpractice payments were made. (Note: the dollar value of payments peaked in 2003.) The *per capita* number of payments in 2012 was 48.5 percent lower than in 2001. [See Figure 1; Raw data for Figure 1 are in the Appendix.]

Figure 1: Number of Malpractice Payments Made on Behalf of Physicians, 1991-2012



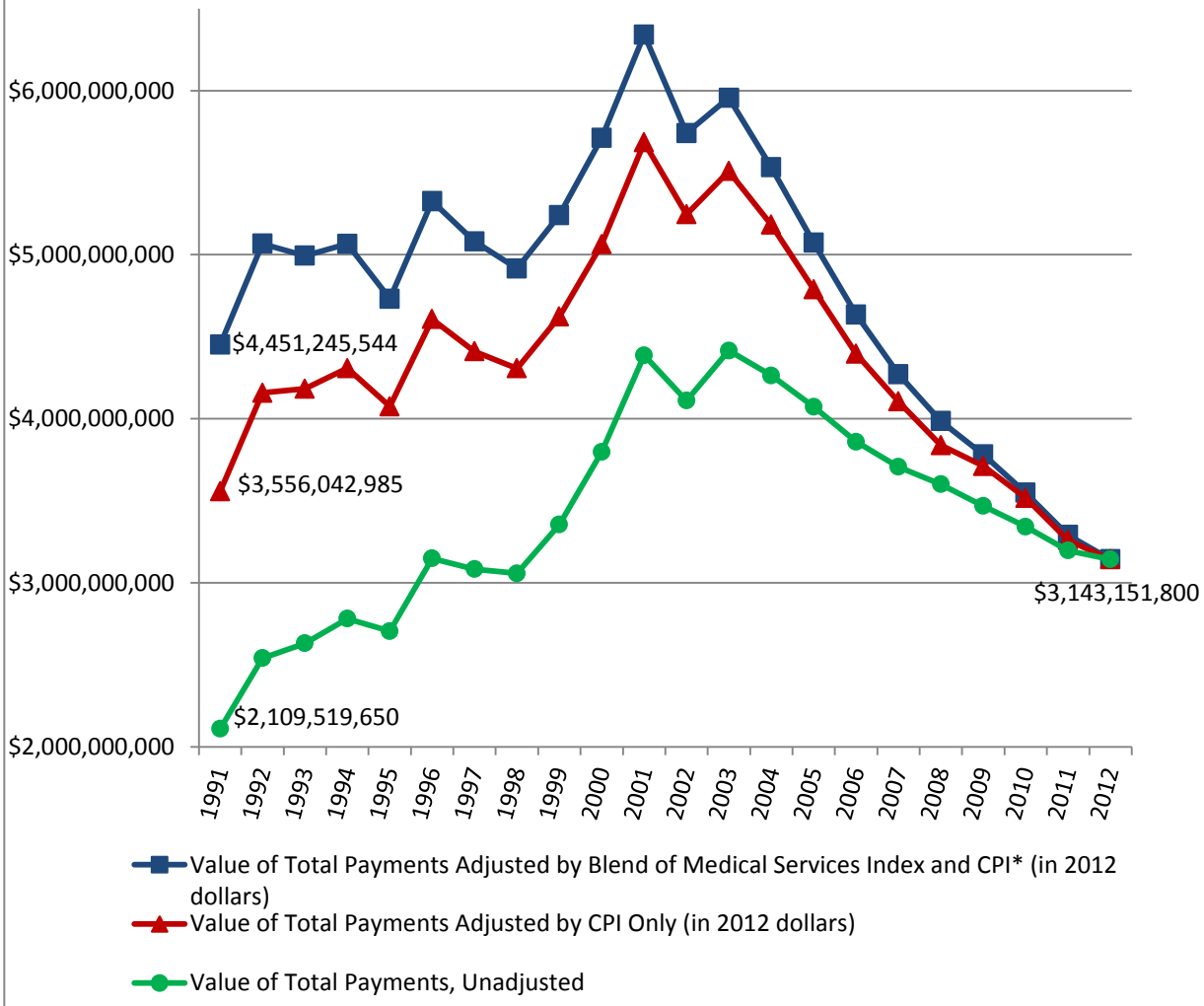
Sources: National Practitioner Data Bank and U.S. Census Bureau

Inflation-adjusted Value of Medical Malpractice Payments Fell to Lowest Level on Record in 2012

The inflation-adjusted amount of money paid on behalf of doctors to resolve medical malpractice claims in 2012 was the lowest since the government began keeping track of

the data. In actual dollars, payments in 2012 were the lowest since 1998. This report adjusts payments for inflation in two ways: by the consumer price index (CPI) and by a 53-47 percent blend of the medical services index and the CPI. The use of this blended index is appropriate. Researchers analyzing a seminal 1992 Utah-Colorado patient safety study concluded that 53 percent of medical malpractice payments, on average, were to offset future medical costs.[19] [See Figure 2; Raw data for Figure 2 are in the Appendix.]

Figure 2: Total Value of Medical Malpractice Payments on Behalf of Doctors, 1991 to 2012



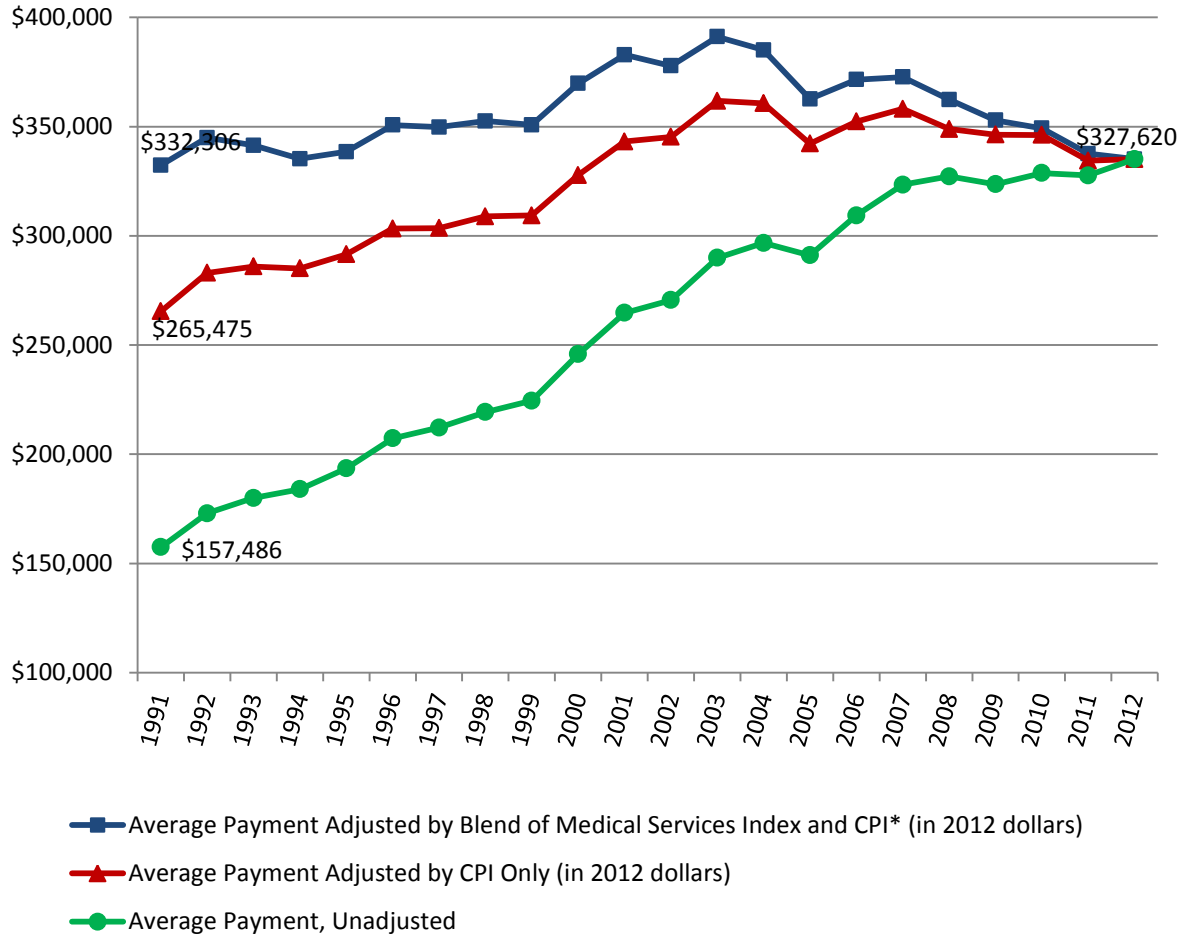
Sources: National Practitioner Data Bank; Bureau of Labor Statistics Consumer Price Index, (All Urban Consumers, Current Series) and Medical Services Inflation Index (All Urban Consumers, Current Series). * Weighted 53% medical services index, 47% consumer price index

[19] David M. Studdert *et al.*, *Beyond Dead Reckoning*, 33 INDIANA LAW REVIEW 1643, 1684 (2000).

The Average Size of Medical Malpractice Payments Increased 2.3 Percent in 2012, Likely Due to Increased Severity in Cases Brought Forth

As the prevalence of medical malpractice payments has declined over the past decade, the average size of payments has generally held about constant or risen slightly, depending on whether they are adjusted for inflation. This likely is due to an increase in the proportion of cases regarding particularly severe harms in an era in which the overall number of claims has decreased. In actual dollars, average payments in 2012 were up 2.3 percent. Adjusted by the CPI, the average payment in 2012 was one-tenth of 1 percent above the median level since 1991. [See Figure 3; Raw data for Figure 3 are in the Appendix.]

Figure 3: Average (Mean) Medical Malpractice Payment on Behalf of Doctors, 1991-2011



Sources: National Practitioner Data Bank; Bureau of Labor Statistics Consumer Price Index, (All Urban Consumers, Current Series) and Medical Services Inflation Index (All Urban Consumers, Current Series). * Weighted 53% medical services index, 47% consumer price index

Medical Malpractice Costs Remained a Tiny Percentage of Overall Health Costs in 2012

The sum of medical malpractice payments made on behalf of doctors in 2012 amounted to only 0.11 percent of total U.S. health care costs. This is the lowest level on record. [See Figure 4]

The total cost of medical liability insurance premiums (encompassing policies purchased on behalf of doctors and hospitals) was only 0.36 percent of total health care costs in 2012. This was the lowest level since 2003, the earliest year for which Public Citizen was able to obtain data.

The total cost of liability insurance serves as a broad proxy for the total cost of medical malpractice payments on the health care system because liability insurance covers not only payments but also litigation defense costs, insurance companies' profits and the companies' overhead.

[Note: National medical liability costs cited in previous Public Citizen reports were about 10 percent lower than are reported here. The difference is due to a methodology change by the provider of the data, A.M. Best. A.M. Best's new methodology, which avails itself of an additional source, is applied retroactively for all years covered in this figure. This adjustment does not alter the substantive findings in this report its predecessors.]

Figure 4: Medical Liability Costs and Malpractice Payments as Percentage of Total Health Care Spending, 1991-2012

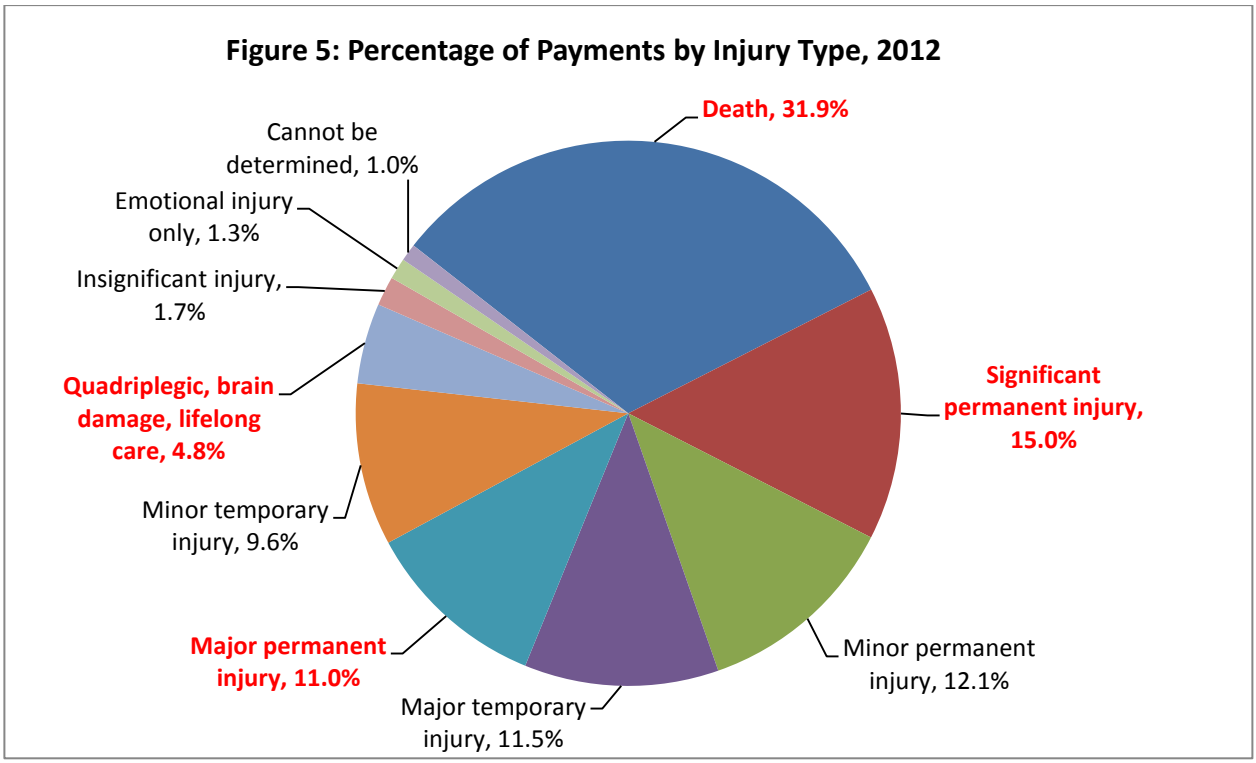
Year	Total National Health Care Costs (in billions of actual dollars)	Sum of Premiums Written for Doctors' and Hospitals' Liability Insurance (in billions of actual dollars)	Value of Malpractice Payments Made on Behalf of Doctors (in billions of actual dollars)	Medical Liability Premiums as a Percentage of Overall Health Care Costs	Medical Malpractice Payments as a Percentage of Overall Health Care Costs
1991	$791	n/a	$2.11	n/a	0.27%
1992	$857	n/a	$2.54	n/a	0.30%
1993	$921	n/a	$2.63	n/a	0.29%
1994	$972	n/a	$2.78	n/a	0.29%
1995	$1,027	n/a	$2.71	n/a	0.26%
1996	$1,081	n/a	$3.15	n/a	0.29%
1997	$1,142	n/a	$3.08	n/a	0.27%
1998	$1,209	n/a	$3.06	n/a	0.25%
1999	$1,286	n/a	$3.35	n/a	0.26%
2000	$1,377	n/a	$3.80	n/a	0.28%
2001	$1,494	n/a	$4.38	n/a	0.29%
2002	$1,636	n/a	$4.11	n/a	0.25%
2003	$1,775	$11.02	$4.42	0.62%	0.25%
2004	$1,902	$11.71	$4.26	0.62%	0.22%
2005	$2,030	$11.86	$4.07	0.58%	0.20%
2006	$2,163	$12.21	$3.86	0.56%	0.18%
2007	$2,298	$11.55	$3.71	0.50%	0.16%
2008	$2,406	$11.19	$3.60	0.47%	0.15%
2009	$2,501	$10.78	$3.47	0.43%	0.14%
2010	$2,600	$10.59	$3.34	0.41%	0.13%
2011	$2,700	$10.31	$3.19	0.38%	0.12%
2012	$2,809	$10.04	$3.14	0.36%	0.11%

Sources: National Practitioner Data Bank, A.M. Best & Co. and Centers for Medicare and Medicaid Studies

More than 60 Percent of the Number of Medical Malpractice Payments in 2012 Compensated for Death; Quadriplegia, Brain Damage or the Need for Lifelong Care; or Permanent Injuries Deemed Significant or Major

Despite rhetoric about "frivolous lawsuits," the vast majority of medical malpractice payments compensate for very serious outcomes. Of the 9,379 medical malpractice payments on behalf of doctors in 2012, more than three-fifths (62.7 percent) compensated for negligence that resulted in a significant permanent injury, major permanent injury, quadriplegia, brain damage, the need for lifelong care, or death. [See Figure 5; Raw data for Figure 5 are in the Appendix.]

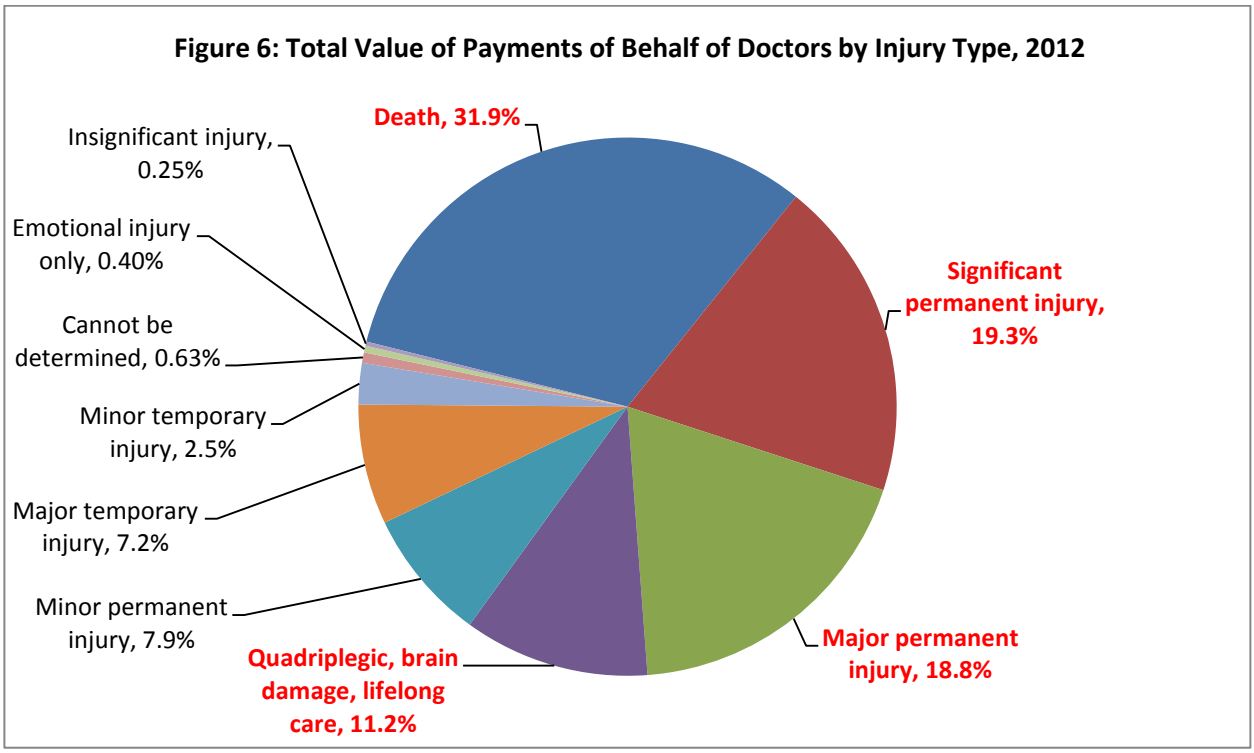
Figure 5: Percentage of Payments by Injury Type, 2012



Source: National Practitioner Data Bank

More Than 81 Percent of the Value of Medical Malpractice Payments in 2012 Compensated for Death; Quadriplegia, Brain Damage or the Need for Lifelong Care; or Permanent Injuries Deemed Significant or Major

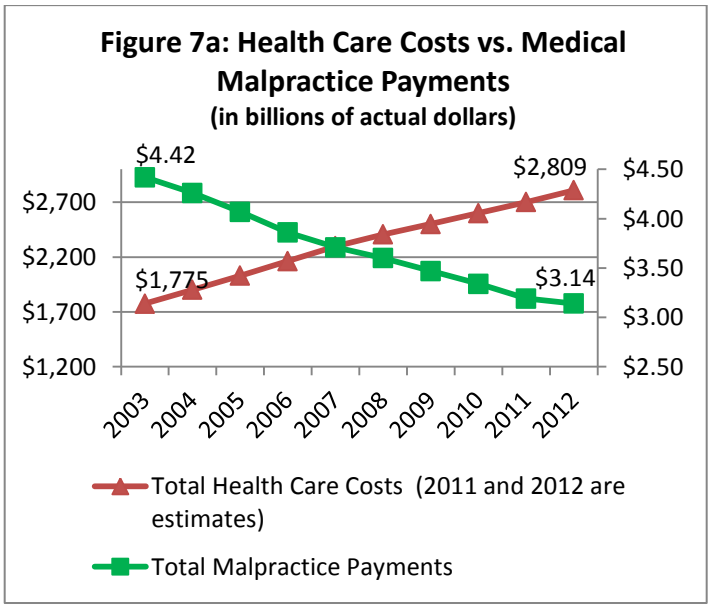
The dollar value of payments for these extremely serious outcomes accounted for more than four-fifths (81.1 percent) of the total value of malpractice payments last year. "Insignificant injury" and "emotional injury only," respectively, accounted for between 0.25 percent and 0.4 percent of dollars paid in 2012. [See Figure 6; Raw data for Figure 6 are in the Appendix.]

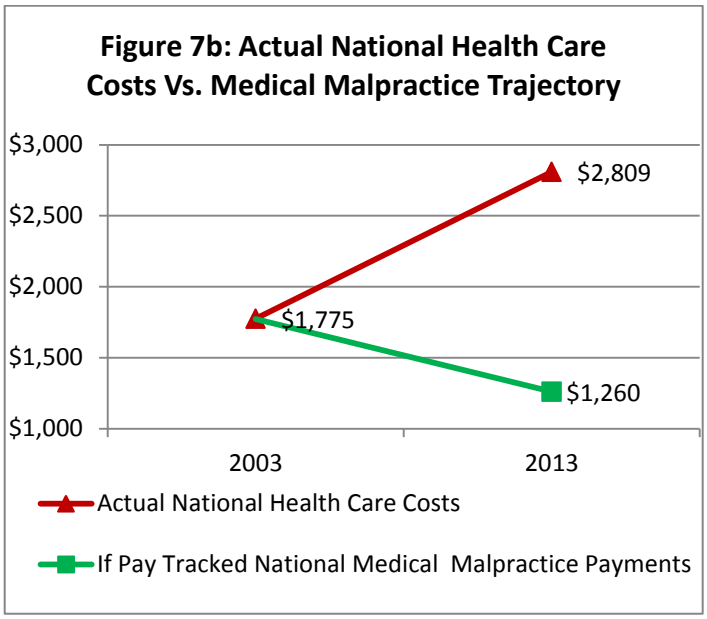


Source: National Practitioner Data Bank

Health Care Costs Are Going in the Opposite Direction of Litigation Payments

Since 2003, health care costs are up 58.3 percent. Litigation costs are down 28.8 percent. (Both figures in actual dollars. The estimated national health care bill for 2012 was $2.8 trillion. If health care costs paralleled litigation costs, the national health care bill would have been $1.3 trillion in 2012, a $1.5 trillion savings. [See Figures 7a and 7b; Raw data for the Figures are in the Appendix.]





Sources for Figures 7 (a-b): Modern Healthcare and Centers for Medicare and Medicaid Services

Physicians' Pay Shows No Correlation to Malpractice Payments and Exceeds Inflation in Most Cases

Since 2003, pay for practitioners of six medical specialties have risen from 24.3 percent (ob-gyn) to 82 percent (radiology), according to results of an annual compensation survey published by *Modern Healthcare*. Specialties shown here are those for which exact category comparisons were available in the 2003 and 2013 compensation surveys. In all but one specialty, the rate of increase in pay exceeded the consumer price index inflation rate for the time period studied. Data reflect the midpoint of findings for each specialty in the survey. [See Figures 8 (a-f). Raw data for the Figures are in the Appendix.]

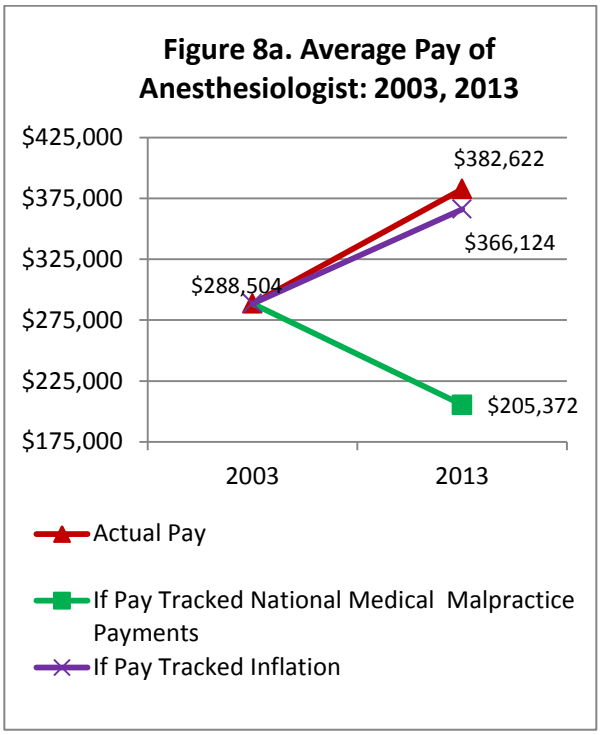


Figure 8a. Average Pay of Anesthesiologist: 2003, 2013
$425,000
$375,000
$325,000
$275,000
$225,000
$175,000
$382,622
$366,124
$288,504
$205,372
2003
2013
Actual Pay
If Pay Tracked National Medical Malpractice Payments
If Pay Tracked Inflation

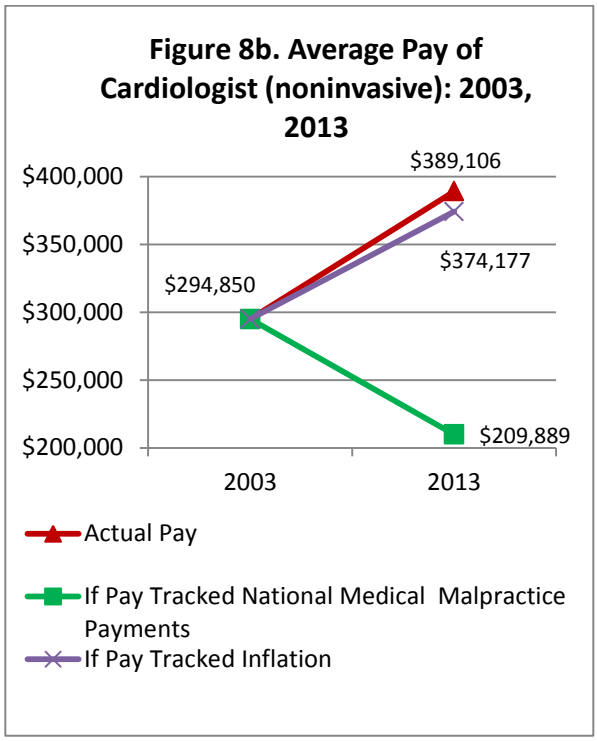


Figure 8b. Average Pay of Cardiologist (noninvasive): 2003, 2013
$400,000
$350,000
$300,000
$250,000
$200,000
$389,106
$374,177
$294,850
$209,889
2003
2013
Actual Pay
If Pay Tracked National Medical Malpractice Payments
If Pay Tracked Inflation

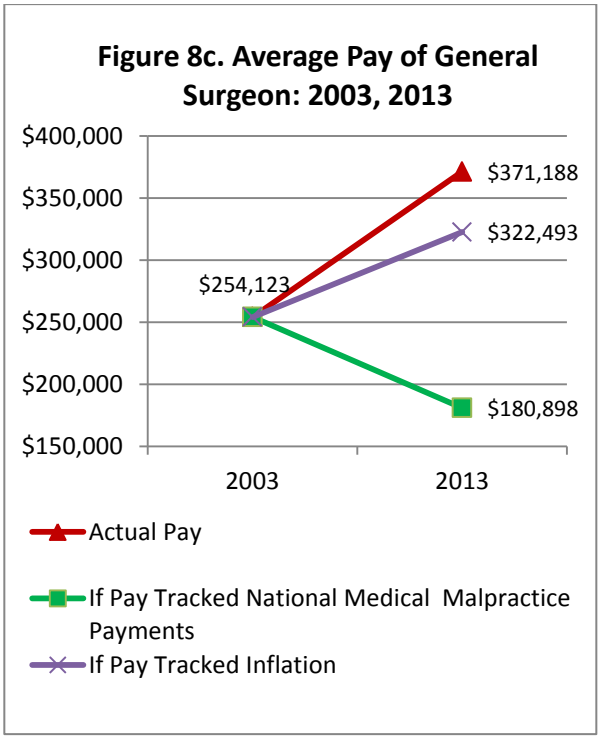


Figure 8c. Average Pay of General Surgeon: 2003, 2013
$400,000
$350,000
$300,000
$250,000
$200,000
$150,000
$371,188
$322,493
$254,123
$180,898
2003
2013
Actual Pay
If Pay Tracked National Medical Malpractice Payments
If Pay Tracked Inflation

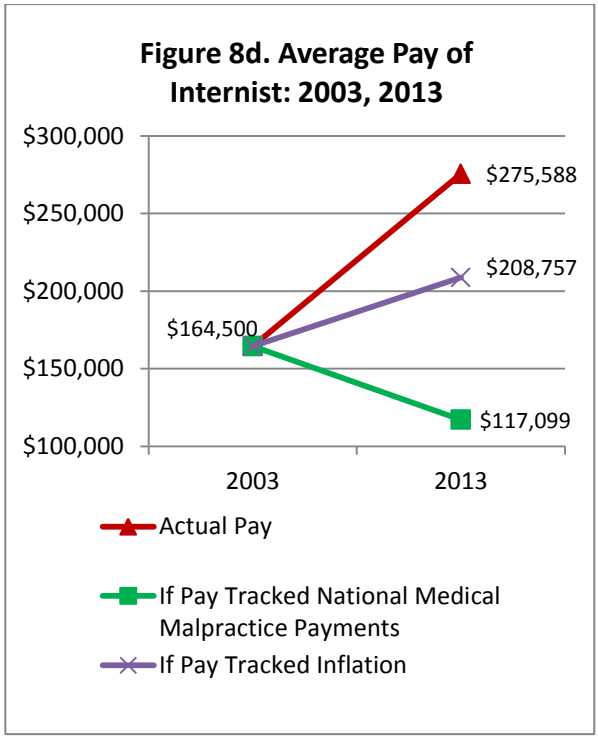
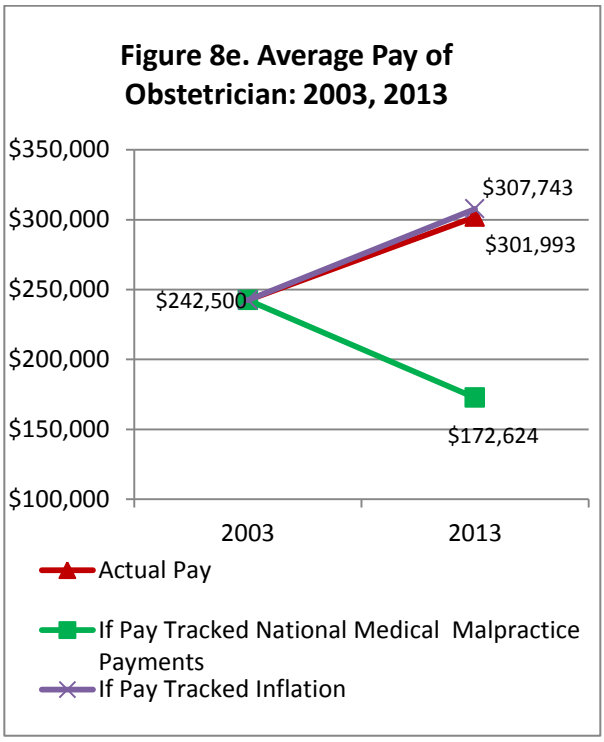
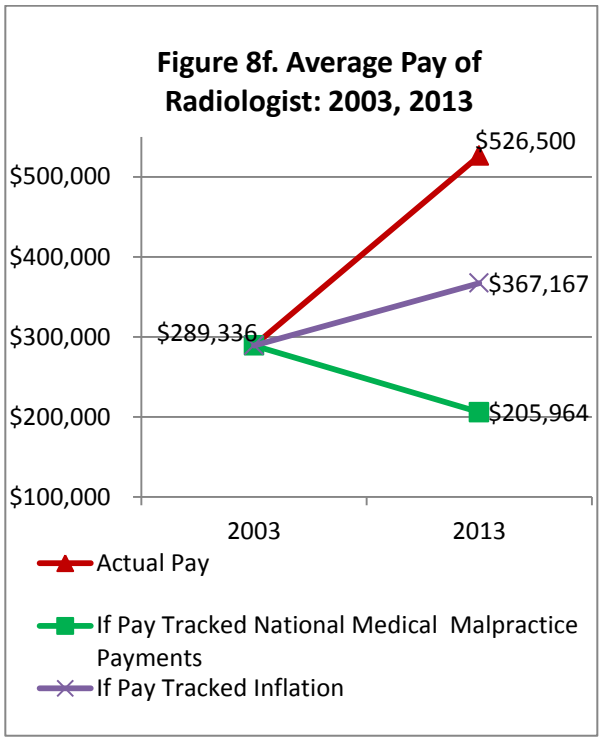


Figure 8d. Average Pay of Internist: 2003, 2013
$300,000
$250,000
$200,000
$150,000
$100,000
$275,588
$208,757
$164,500
$117,099
2003
2013
Actual Pay
If Pay Tracked National Medical Malpractice Payments
If Pay Tracked Inflation

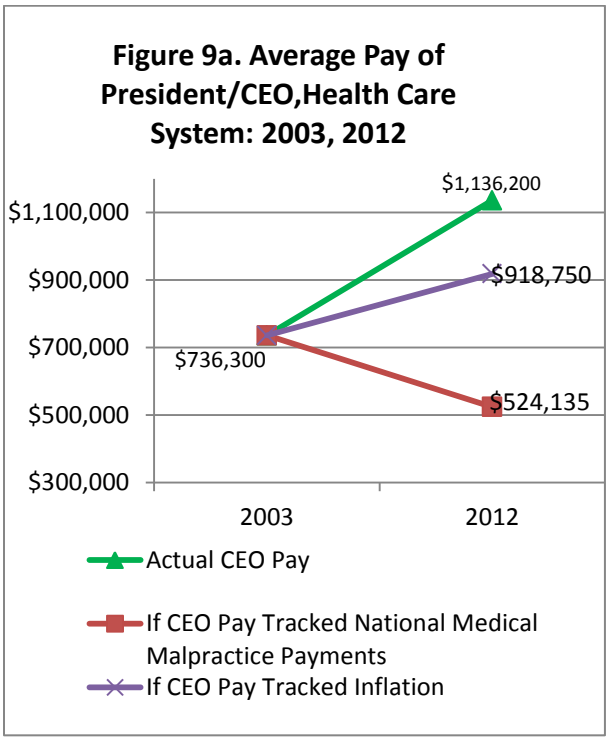


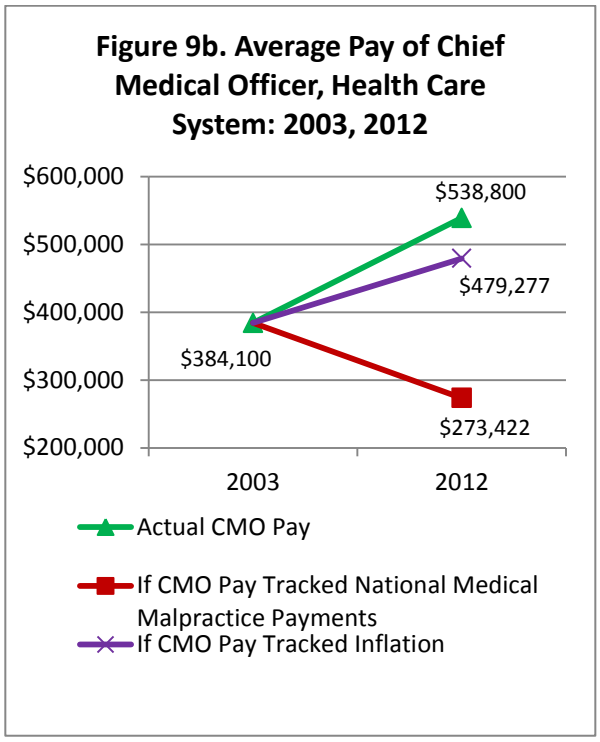


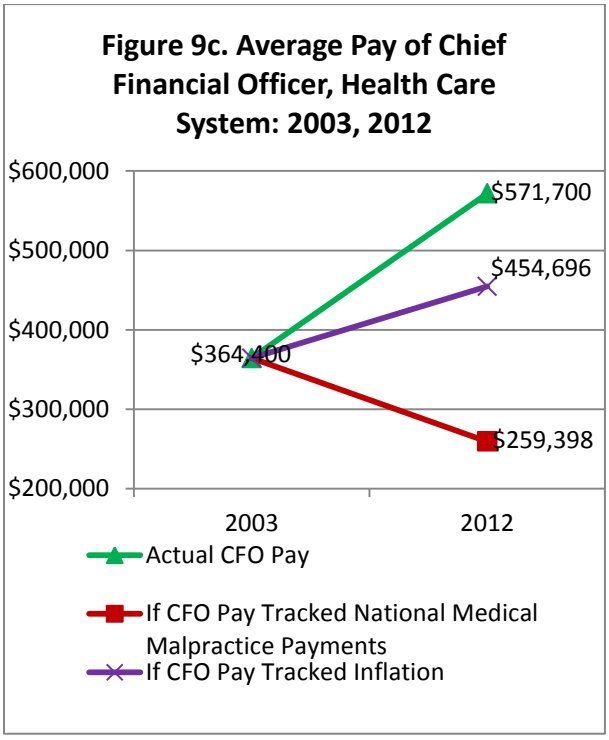
Sources for Figure 8 (a-f): Modern Healthcare, National Practitioner Data Bank and Bureau of Labor Statistics.

Hospital CEOs' Pay Shows No Correlation to Malpractice Payments and Far Exceeds Inflation

Between 2003 and 2012, the average pay of a health care system CEO rose 54.3 percent, a chief medical officer 40.3 percent and a chief financial officer 56.9 percent. Inflation over this time period was 24.8 percent.







Sources for 9 (a-c): Modern Healthcare, National Practitioner Data Bank and Bureau of Labor Statistics

Appendix

Figure 1: Number of Medical Malpractice Payments Made on Behalf of Physicians, 1991-2012

Year	Number of Payments	Number of Payments per 1 Million People (U.S. Population)
1991	13,395	53.1
1992	14,689	57.6
1993	14,629	56.7
1994	15,112	58.1
1995	13,978	53.2
1996	15,188	57.3
1997	14,531	54.3
1998	13,943	51.6
1999	14,942	54.8
2000	15,445	54.7
2001	16,565	58.1
2002	15,194	52.8
2003	15,230	52.5
2004	14,367	49.1
2005	13,992	47.3
2006	12,476	41.8
2007	11,461	38.0
2008	11,001	36.2
2009	10,717	34.9
2010	10,160	32.8
2011	9,750	31.3
2012	9,379	29.9

Sources: National Practitioner Data Bank and U.S. Census Bureau

Figure 2: Value of Medical Malpractice Payments on Behalf of Doctors, 1991-2012

Year	Value of Total Payments Adjusted by Blend of Medical Services Index and CPI* (in 2012 dollars)	Value of Total Payments Adjusted by CPI Only (in 2012 dollars)	Value of Total Payments, Unadjusted
1991	$4,451,245,544	$3,556,042,985	$2,109,519,650
1992	$5,066,410,125	$4,157,464,260	$2,540,537,800
1993	$4,993,864,031	$4,182,747,782	$2,632,503,700
1994	$5,066,054,984	$4,308,146,511	$2,780,853,650
1995	$4,731,229,882	$4,075,268,718	$2,705,083,550
1996	$5,326,851,919	$4,606,950,893	$3,148,299,150
1997	$5,082,134,771	$4,410,279,157	$3,083,050,100
1998	$4,915,715,273	$4,306,942,789	$3,057,709,150
1999	$5,240,975,911	$4,622,289,284	$3,354,065,850
2000	$5,710,906,860	$5,062,656,164	$3,797,091,350
2001	$6,341,569,691	$5,683,942,111	$4,384,374,800
2002	$5,740,800,725	$5,245,936,131	$4,110,490,300
2003	$5,956,765,164	$5,509,276,170	$4,415,214,750
2004	$5,532,256,182	$5,181,855,086	$4,263,405,950
2005	$5,073,787,079	$4,788,361,032	$4,073,133,050
2006	$4,634,923,588	$4,395,383,695	$3,859,462,150
2007	$4,271,488,742	$4,104,426,653	$3,706,630,100
2008	$3,985,878,690	$3,837,977,656	$3,599,084,050
2009	$3,781,622,528	$3,711,494,237	$3,468,090,800
2010	$3,548,578,035	$3,516,829,754	$3,340,095,250
2011	$3,291,396,909	$3,260,396,529	$3,194,292,250
2012	$3,143,151,800	$3,143,151,800	$3,143,151,800

Sources: National Practitioner Data Bank; Bureau of Labor Statistics Consumer Price Index, (All Urban Consumers, Current Series) and Medical Services Inflation Index (All Urban Consumers, Current Series).
* Weighted 53% medical services index, 47% consumer price index

Figure 3: Average (Mean) Medical Malpractice Payment on Behalf of Doctors, 1991-2012

Year	Mean Payment Adjusted by Blend of Medical Services Index and CPI* (in 20112 dollars)	Mean Payment Adjusted by CPI Only (in 2012 dollars)	Average Payment, Unadjusted
1991	$332,306	$265,475	$157,486
1992	$344,912	$283,032	$172,955
1993	$341,367	$285,922	$179,951
1994	$335,234	$285,081	$184,016
1995	$338,477	$291,549	$193,524
1996	$350,728	$303,328	$207,289
1997	$349,744	$303,508	$212,171
1998	$352,558	$308,896	$219,301
1999	$350,755	$309,349	$224,472
2000	$369,758	$327,786	$245,846
2001	$382,829	$343,130	$264,677
2002	$377,833	$345,264	$270,534
2003	$391,120	$361,738	$289,902
2004	$385,067	$360,678	$296,750
2005	$362,621	$342,221	$291,104
2006	$371,507	$352,307	$309,351
2007	$372,698	$358,121	$323,412
2008	$362,320	$348,875	$327,160
2009	$352,862	$346,318	$323,606
2010	$349,269	$346,145	$328,750
2011	$337,579	$334,400	$327,620
2012	$335,127	$335,127	$335,127

Sources: National Practitioner Data Bank and Bureau of Labor Statistics Consumer Price Index, (All Urban Consumers, Current Series) and Medical Services Inflation Index (All Urban Consumers, Current Series).
* Weighted 53% medical services index, 47% consumer price index

Figure 4: Medical Liability Costs and Malpractice Payments as Percentage of Total Health Care Spending

[Figures are included in Data Analysis Section, above]

Figure 5: Number of Medical Malpractice Payments by Injury Type, 2012

Injury Type	Count of Payment	Percentage
Death	2,996	31.9%
Significant permanent injury	1,409	15.0%
Minor permanent injury	1,137	12.1%
Major temporary injury	1,081	11.5%
Major permanent injury	1,028	11.0%
Minor temporary injury	903	9.6%
Quadriplegic, brain damage, lifelong care	448	4.8%
Insignificant injury	163	1.7%
Emotional injury only	118	1.3%

Source: National Practitioner Data Bank

Figure 6: Value of Medical Malpractice Payments by Injury Type, 2012

Injury Type	Cumulative Amount of Payments	Percentage
Death	$1,001,738,800	31.9%
Significant permanent injury	$605,407,500	19.3%
Major permanent injury	$590,731,250	18.8%
Quadriplegic, brain damage, lifelong care	$350,677,500	11.2%
Minor permanent injury	$249,358,100	7.9%
Major temporary injury	$226,976,350	7.2%
Minor temporary injury	$77,973,200	2.5%
Cannot be determined	$19,790,750	0.6%
Emotional injury only	$12,696,800	0.4%
Insignificant injury	$7,801,550	0.2%

Source: National Practitioner Data Bank

Figure 7a: Value of Medical Malpractice Payments by Injury Type, 2012
(in billions of actual dollars)

Year	Total Health Care Costs (2011 and 2012 are estimates)	Total Malpractice Payments
2003	$1,775	$4.42
2004	$1,901	$4.26
2005	$2,030	$4.07
2006	$2,163	$3.86
2007	$2,298	$3.71
2008	$2,406	$3.60
2009	$2,501	$3.47
2010	$2,600	$3.34
2011	$2,700	$3.19
2012	$2,809	$3.14
Pct. Change, 2003-2012	58.3%	-28.8%

Sources: National Practitioner Data Bank and Centers for Medicare and Medicaid Services

Figure 7b: Comparison of National Health Care Costs and Malpractice Payments: 2003, 2012
(in billions of actual dollars)

Year	Actual National Health Care Costs (2011 and 2012 are estimates)	If Health Care Costs Tracked National Medical Malpractice Payments
2003	$1,775	--
2013	$2,809	$1,260
Pct. Change 2003-2012	58.3%	-28.8%

Sources: National Practitioner Data Bank and Centers for Medicare and Medicaid Services

Figure 8 (a-f): Comparison of Physician Pay and National Malpractice Trajectory: 2003, 2012

Specialty	Year	2003 Pay	2013 Pay	Pct. Change, 2003-2013	2013 Pay if It Tracked National Medical Malpractice Payments Since 2003 (-28.8%)	2013 Pay if It Tracked Inflation Since 2003 (+26.9%)
Anesthesiology	2003	$288,504	$382,622	32.6%	$205,372	$366,124
Cardiology (noninvasive)	2003	$294,850	$389,106	32.0%	$209,904	$374,177
General Surgery	2003	$254,123	$371,188	46.1%	$180,910	$322,493
Internal Medicine	2003	$164,500	$275,588	67.5%	$117,108	$208,757
Ob-Gyn	2003	$242,921	$301,993	24.3%	$205,964	$367,167
Radiology	2003	$289,336	$526,500	82.0%	$164,303	$292,889

Sources: Modern Healthcare, National Practitioner Data Bank and Bureau of Labor Statistics

Figure 9 (a-c): Average Pay Hospital Executives: 2003, 2012

Specialty	Year	2003 Pay	2012 Pay	Pct. Change, 2003-2012	2012 Pay if It Tracked National Medical Malpractice Payments Since 2003 (-28.8%)	2012 Pay if It Tracked Inflation Since 2003 (+24.8)
President/CEO, Health Care System	2003	$736,300	$1,136,200	54.3%	$524,135	$918,750
Chief Medical Officer, Health Care System	2003	$384,100	$538,800	40.3%	$273,422	$479,277
Chief Financial Officer, Health Care System	2003	$364,400	$571,700	56.9%	$259,398	$454,696

Sources: Modern Healthcare, National Practitioner Data Bank and Bureau of Labor Statistics