

Scope of Study

Medical Malpractice Insurance Costs

Background

Medical negligence is the failure of a physician to exercise the degree of care, skill, or diligence ordinarily exercised by physicians in the same type of practice across the country, which results in injury or damage to a patient. In Connecticut and the rest of the U.S., a person may sue a doctor in civil court to recover for injuries or damages caused by medical negligence. Medical malpractice insurance is intended to protect physicians from the economic consequences of medical negligence claims.

According to the state Department of Insurance, malpractice insurance rates for physicians in Connecticut began to rise in 1998 with “dramatic” increases beginning in 2000. In 2002, the average rate increase for physicians was over 23%; in 2003 so far, the average increase is around 30%. Rising liability insurance costs coupled with tighter controls on physician revenues is reportedly leading some doctors to leave medicine, especially those in the types of practices most hit by rising liability costs such as obstetrics, neurosurgery, and primary care.

In Connecticut as elsewhere, there is disagreement about the cause of the cost increases, and thus the appropriate remedy. One major position holds the increase is due to unpredictable and high jury awards for noneconomic damages, and their influence on settlement amounts. In a medical malpractice case, there are two kinds of damages: economic, which include lost wages, medical care costs, and replacement services, subject to objective measure; and noneconomic, which include items such as pain and suffering, for which no objectively measurable monetary value exists. Another view holds the increase is due to insurance company financial and market conditions, i.e., falling insurance company investment value due to recent stock market declines, and carriers exiting the business. Still others believe the cause is the failure of the health care system to improve patient care, leading to medical malpractice in the first place.

Seventeen states, focusing on the jury award issue, have enacted statutory caps on jury awards for non-economic damages, while another five have enacted caps on total damages. Currently, federal legislation is under consideration to put a \$250,000 cap on noneconomic damage awards, intended to apply to state courts. Several bills have been introduced here in Connecticut during this session to address this problem, many focusing on jury awards.

Area of Focus

The study will assess the actual circumstances underlying the costs of medical malpractice insurance and analyze which factors are responsible for rising premiums, in order to determine what remedies would be most effective.

Areas of Analysis

1. Analyze medical malpractice insurance costs over a certain period of time (e.g., 10 years) in Connecticut and elsewhere, and compare increases to other relevant types of insurance.
2. Describe the medical malpractice insurance market, including number of companies involved.
3. Analyze how insurance companies determine what premiums to charge doctors, reviewing the changeability of each factor over a certain period of time, including but not limited to investment earnings and loss assumptions.
4. Evaluate whether the state insurance department's role in monitoring medical malpractice rates, including insurance market competitiveness, is effective
5. Analyze outcomes of Connecticut medical malpractice lawsuits in terms of damages over a certain period of time (e.g., five years) (cognizant of possible difficulties in data availability and analysis)
6. Assess impact of Connecticut tort reform efforts in late 1980s (Tort Reform I, Tort Reform II) on medical malpractice suits (e.g. case certification, limits on attorney fees)
7. Examine experience in other states and review array of initiatives to address insurance cost issue, such as guaranty funds and alternative dispute resolutions mechanisms.