INSURANCE COMPANY HANDOUT:

HOW THE INDUSTRY USED TORT REFORM TO INCREASE PROFITS WHILE AMERICANS' PREMIUMS SOARED

ONE OF A SERIES OF REPORTS FROM THE AMERICAN ASSOCIATION FOR JUSTICE ON MEDICAL NEGLIGENCE

DECEMBER 2009

AMERICAN ASSOCIATION *for* JUSTICE

Formerly the Association of Trial Lawyers of America (ATLA®)

Table of Contents

Executive Summary

This report is one of a series from the American Association for Justice (AAJ) highlighting the issue of medical negligence. AAJ previously released:

- *Medical Negligence: A Primer for the Nation's Health Care Debate*, which examined some of the chief myths and facts surrounding medical malpractice, patient safety and access to health care;
- *The Truth About "Defensive Medicine,"* which debunked claims that the threat of liability drives up the cost of health care;
- *The Insurance Hoax*, which analyzed the financial performance of the 10 largest medical malpractice insurers in the United States, and;
- *Five Myths About Medical Negligence*, which revealed the truth behind the biggest misconceptions about medical negligence. All of this information can be found at www.justice.org/medicalnegligence.

Those opposed to comprehensive health care reform have used the current debate as an opportunity to discuss tort reform; in short, limiting the legal rights of injured patients. Proponents say tort reform will reduce the amount of money insurance companies have to pay out to victims of medical negligence, which will lead to lower medical malpractice premiums for physicians, which, in turn, will lead to lower health care costs and health insurance premiums for all Americans. This report delves deeper into this concept, comparing the financial performance of medical malpractice insurance companies in states that have enacted restrictions on patients' rights with companies in states that have not. The report's primary sources of data are annual statements filed by the insurance companies themselves and data from the National Association of Insurance Commissioners (NAIC).

This report finds:

- **Caps on damages result in significantly increased insurance company profits.** Medical malpractice insurance company profits have gone up in all states, but at a faster rate when a state enacts caps. Insurance company profits are 24 percent higher in states with caps. When insurance companies pay out less, they keep more.

- **Increased insurance company profits are the ONLY effect of caps on damages.** States with caps do NOT have lower physician premiums or health care premiums. The only effect is a boosting of the insurance industry bottom line.

- **Medical negligence laws were passed under false pretenses.** The medical malpractice insurance industry has seen a 47 percent increase in profitability in the last 10 years. Overblown reported losses were used by the insurance industry to justify new measures restricting the rights of those injured by medical negligence.

- **Insurance companies are enjoying extremely high levels of profit.** In 2008, the average profit of the 10 largest medical malpractice insurers was higher than 99 percent of the Fortune 500 companies and 35 times higher than Fortune 500 average.

Insurance Company Profits Are Higher in States with Caps

The "medical malpractice crisis" of the earlier part of this decade has long since ended and been quietly replaced by a period of extremely robust profits. Since 2003, 12 states have enacted tort reform, bringing the number of states with some form of cap on medical malpractice claims to more than 30. Have health care costs decreased? No. Have patients' healthcare premiums decreased? No. Have medical malpractice insurers' profits gone up? Yes. Dramatically.

A Period of Unprecedented Wealth

By their own account, medical malpractice insurers are enjoying a period of unprecedented wealth. According to industry trade organization the Insurance Information Institute (III), insurance companies' operating margins are the best in the last twenty years, surpassing even the boom years of the early and mid-1990s.[1]

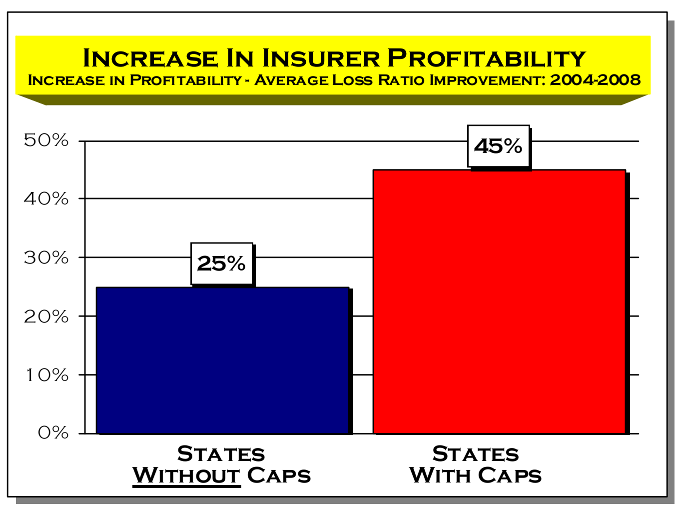
The National Association of Insurance Commissioners (NAIC) uses "loss ratio" and "profits on insurance transactions" as two measures of profitability. The loss ratio is essentially a measure of the percentage of each premium dollar an insurer expects to pay out. Over the last 10 years, the entire medical malpractice insurance industry's loss ratio has shown a 47 percent increase in profitability.

In 2007, medical malpractice insurer profit based just on insurance transactions—that is, just on the premiums they took in—was 25 percent. This was more than double the amount than the entire industry (11 percent). Return on net worth was also higher. Clearly, medical malpractice insurance has proved even more profitable than the property/casualty insurance industry[2]

Profits Higher in States With Caps

Restricting the ability of patients injured by medical negligence to seek recourse is supposed to have financial benefits—lower physician premiums, lower patient premiums, lower health care costs—that justify the elimination of rights. In fact, there is only one effect: increased insurance company profits. Profits are robust across the country, no matter whether a state has a cap on medical negligence awards or not. But medical malpractice insurance industry profits are significantly higher in states with caps.

This is true no matter what measure of profitability is used. In states with caps, the average loss ratio is 24 percent better than in states without caps.[3] The same is true if profitability is measured by other methods. "Profits on insurance transactions," the amount of money the industry makes on premiums alone was 25 percent in states without caps, but a significantly higher 45 percent in states with caps.



Insurance Companies have increased profits in all states, but have seen significantly higher rates of increase in states with caps.

Profits Increasing at Higher Rates

Not only are profits higher in states with caps, but they are rising at a faster rate. Since the mid-2000s, the period during which tort reform proponents were proclaiming a medical malpractice "crisis," profitability in states without caps has risen by an average of 26 percent. However, in states with caps, profitability has risen by an average of 45 percent. This is, and always was, the true driver behind medical malpractice caps: insurance company profits.

Top 10 Higher Than 99 Percent of the Fortune 500

In fact, for those medical malpractice insurance companies and their executives at the very top of the industry, medical malpractice insurance has proved to be a spectacularly profitable business. The average profit of the top 10 medical malpractice insurance companies in 2008 was higher than all but five, or 99 percent, of Fortune 500 companies and 35 times higher than the Fortune 500 average for the same time period.[4]

INSURANCE COMPANY PROFITS — 10 LARGEST MEDICAL MALPRACTICE INSURERS

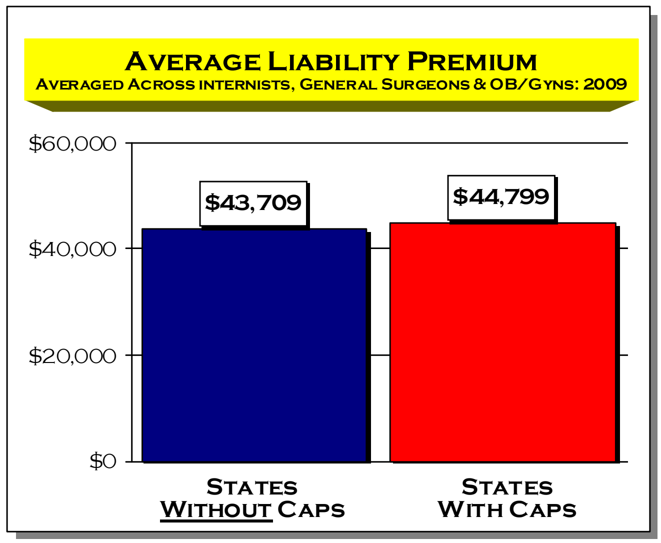
RANK	INSURANCE GROUP OR COMPANY NAME	TOTAL PROFIT/LOSS
1	MEDICAL LIABILITY MUTUAL INSURANCE COMPANY	6.1%
2	MEDICAL PROTECTIVE (BERKSHIRE HATHAWAY)	28.7%
3	DOCTORS COMPANY	20.7%
4	LEXINGTON (AIG)	67.3%
5	CONTINENTAL CASUALTY (CAN)	27.0%
6	PROASSURANCE	74.8%
7	PHYSICIANS' RECIPROCAL INSURANCE	5.9%
8	ISMIE	23.2%
9	PROMUTUAL	27.7%
10	MAG MUTUAL	30.3%
	AVERAGE	31.2%

Higher Profits Do Not Equal Lower Physician Premiums

According to proponents of tort reform, reducing the amount of compensation paid to victims of medical negligence should result in lower physician premiums and lower health care costs. Insurance companies pay out less, so they can afford to take in less. Without a doubt, medical malpractice insurance companies are paying out less money in states with caps. However, this does not mean doctors are paying lower premiums. In fact, the average premium for physicians is slightly higher in states with caps.[5]

Insurers Taking in More, But Paying Out Less
In states without caps, insurance companies took in just over twice what they paid out in 2008. However, in states with caps, insurance companies took in 3.5 times what they paid out. In effect, insurance companies continue taking in the same level of premiums, but pay out less in states with tort reform.[6]

Additionally, premiums are not lower in states that have enacted caps, nor is the rate at which they have increased. In fact, premiums have risen at identical rates no matter whether caps have been enacted or not. The average premium in 2009 is now exactly 1.8 times what it was in 2001 for both states with and without caps on damages.[7]



Malpractice Premiums Averaged Across Specialties In States With Caps Are 2.5% Higher Than In States Without Caps

Economists – No Connection Between Premiums and Payouts
Economists and academics have long highlighted that physician premiums have nothing to do with what an insurance company pays out. Researchers at the National Bureau of Economic Research (NBER) reported that, “increases in malpractice payments made on behalf of physicians do not seem to be the driving force behind increases in premiums.”[8]

A study by researchers at the University of Texas, Columbia University and the University of Illinois, based on closed claims compiled by the Texas Department of Insurance, concluded that “the rapid changes in insurance premiums that sparked the crisis appear to reflect insurance market dynamics, largely disconnected from claim outcomes.”[9]

Caps Followed By Rate Hikes
Tort reform proponents like to focus on Texas as a success story for tort reform. Texas passed a restrictive cap on damages in 2003. Following enactment of the cap, GE Medical Protective, the nation’s largest medical malpractice insurer, told the Texas Insurance Commissioner that caps had a negligible impact on rates and announced a 19 percent increase in doctors’ premiums. After the company’s rate hike request was denied, they announced intentions to use a legal loophole, avoiding state regulation, and increased

premiums 10 percent – without approval. Texas legislators eventually threatened the insurance companies with mandatory rate rollbacks if doctors did not see significant reductions in their rates.[10]

When faced with the reality that caps on damages may reduce what insurance companies pay out, but do not reduce what insurance companies seek to take in, those who were persuaded to pass tort reform are often livid. In the Texas example, legislators eventually threatened the insurance companies with mandatory rate rollbacks. California saw insurance rates increase over 450 percent in the 13 years after it passed MICRA, a severe cap on damages, and only saw rates go down in the wake of Proposition 103, a set of insurance reforms that included mandatory rollbacks.

Insurers in Their Own Words

Insurers have defended not passing on any savings as good business sense. The American Insurance Association (AIA) has stated, "We have not promised price reductions with tort reform," and, "Insurers never promised that tort reform would achieve specific premium savings."[11]

Bob White, president of First Professional Insurance Company, the largest medical malpractice insurer in Florida, said of his state, "[n]o responsible insurer can cut its rates after a [medical malpractice tort 'reform'] bill passes."[12] Florida has by far the highest physician premiums in the country.

Sherman "Tiger" Joyce, president of the American Tort Reform Association (ATRA), admitted to *Liability Week* that tort reform measures do not reduce insurance premiums, saying, "We wouldn't tell you or anyone that the reason to pass tort reform would be to reduce insurance rates."

Similarly, Victor Schwartz, general counsel of ATRA, told *Business Insurance* that, "[M]any tort reform advocates do not contend that restricting litigation will lower insurance rates, and I've never said that in 30 years."[13]

The fact is, the insurance industry was the driving force behind the push for caps on damages, no matter whether it was behind the scenes or in front of it. Their motivation was simply profits. When doctors, legislators and others saw no evidence of rate relief, insurance companies made any number of excuses. Meanwhile, profits jumped.

The Insurance Cycle

The reality that tort reform does not reduce physicians' premiums has been somewhat hidden by the dynamics of what is known as the "insurance cycle." The property/casualty (P/C) insurance industry as a whole, and particularly the medical malpractice line, is characterized by a cyclical swing between 'soft' and 'hard' markets.

Under a 'soft' market, insurance companies compete for market share by lowering insurance rates. As competition increases, insurance rates decrease. A soft market often occurs during a period of high interest rates, because the companies' increased investment gains allow them to offer reductions in rates to policyholders. The current soft market has kept physicians' premiums from increasing, whether or not a state has enacted a cap.

A 'hard' market follows when market competition is saturated and rates are too low to sustain profits. A readjustment occurs, in which less stable companies are driven from the market, and those remaining sharply increase rates. A hard market often occurs during a period of low interest rates, because the companies' reduced investment gains necessitate an increase in insurance rates offered to policyholders to make up the difference.

A consequence of the hard market is that the reduced competition and high premium rates make the market very profitable, and companies once again join the market and begin competing for market share, thus creating a new soft market and continuing the cycle.

The dynamic of the insurance cycle is well-known by analysts within the insurance industry.[14] Remarkably, though by its own account this cycle is a result of insurance industry dynamics, the industry's leaders are already positioning to claim another "tort crisis" and to lobby for even more severe restrictions on patients' rights in 2012.[15] The insurance industry will once again seek to pull the wool over everyone's eyes in the search for greater profits.

Higher Profits Do Not Equal Lower Health Insurance Premiums

Clearly, higher profitability in states with caps does not translate to lower premiums for physicians. It comes as no surprise then that higher profitability does not translate into health insurance premium savings for patients. In fact, the premiums for employees enrolled in single coverage have increased at about the same rate across all states whether or not they have caps.[16]

States With Low Medical Malpractice Premiums Do Not Consistently Have Low Health Care Premiums
There is, in fact, no correlation between malpractice premiums and health care premiums. States with low medical malpractice premiums do not necessarily have low health insurance premiums. Maine, for instance, has the 9th lowest medical malpractice premiums in the country but the 4th highest health insurance premiums. Alaska has the highest health insurance premiums in the country, yet its medical malpractice premiums are the 37th lowest. Minnesota has the lowest medical malpractice premiums in the country, yet its health insurance premiums are above average. Nor is there any consistent correlation the other way around. Nevada has the 3rd lowest health insurance premiums in the country, but that cannot be through medical malpractice savings, as the medical malpractice premiums are the nation's 9th highest, and this despite having a cap in place for eight years.

Insurers Keep Most of the Premium Dollar
An examination of the portion of revenue insurers pay out in claims shows that insurers do not pass savings from tort reforms along to doctors and consumers, and that health care costs are not reduced. Medicare, for instance, puts about 98 percent of its revenue towards paying claims. Health insurers on the other hand, even by their own best estimate, put about 87 percent of their revenues towards paying claims. For medical malpractice insurers, that ratio goes down to 55 percent. So 45 cents of every premium dollar is kept by the insurance companies. When insurance companies

State Rankings of Premiums in Health Insurance and Medical Malpractice

Health Insurance Premium Rank	State	Medical Malpractice Premium Rank
1	Alaska	37
39	Alabama	43
32	Arizona	14
49	Arkansas	44
29	California	33
28	Colorado	32
11	Connecticut	2
12	Delaware	24
7	District of Columbia	3
16	Florida	1
37	Georgia	25
50	Hawaii	35
42	Idaho	45
13	Illinois	4
18	Indiana	31
38	Iowa	46
35	Kansas	39
47	Kentucky	27
46	Louisiana	17
4	Maine	42
26	Maryland	7
8	Massachusetts	20
24	Michigan	10
21	Minnesota	51
40	Mississippi	18
41	Missouri	15
27	Montana	19
23	Nebraska	50
48	Nevada	9
2	New Hampshire	28
9	New Jersey	8
44	New Mexico	23
14	New York	5
20	North Carolina	34
51	North Dakota	47
43	Ohio	16
45	Oklahoma	30
25	Oregon	38
17	Pennsylvania	6
3	Rhode Island	11
19	South Carolina	41
31	South Dakota	48
30	Tennessee	36
33	Texas	22
36	Utah	21
5	Vermont	40
34	Virginia	29
22	Washington	26
6	West Virginia	12
10	Wisconsin	49
15	Wyoming	13

Health insurance rankings from *Medical Expenditure Panel Survey – Insurance Component*, U.S. Department of Health and Human Services (HHS); medical malpractice rankings derived from *Medical Liability Monitor*.

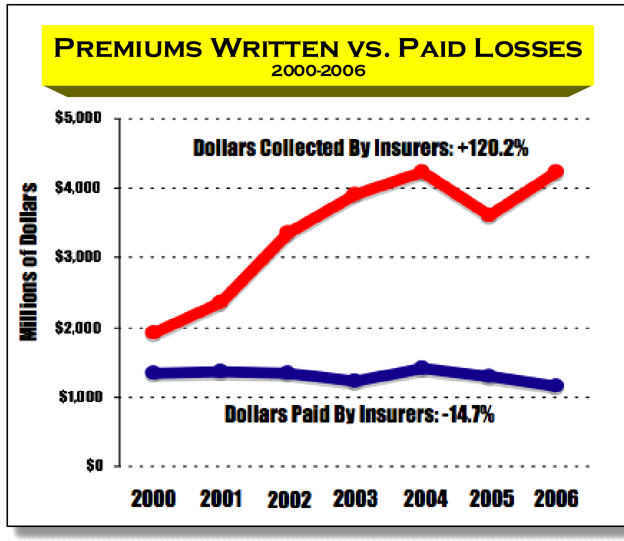
lower their losses, they do not pass the money along. Widespread restrictions on patients' rights to hold negligent doctors accountable has resulted in only one thing—a vastly profitable medical malpractice insurance industry.

A *Dallas Morning News* investigation of Texas' 2003 medical negligence cap found similar results. The severe cap all but wiped out compensation to patients injured by medical negligence. While hospitals and medical malpractice insurance companies made millions over the next few years, no hospital or doctor cut the prices they charged patients or health insurers. The cost of health care in Texas continued to rise at near record levels.[17]

Why Tort Reform?

If restricting the rights of injured patients does not reduce physicians' premiums, does not reduce patients' premiums, and does not reduce health care costs, why did so many states enact tort reform?

The Insurance Industry Misleads
Simply put, the insurance industry hoodwinked physicians, legislators and the media. They did so by systematically overestimating their losses in recent years. The widely reported medical malpractice insurance "crisis" was significantly overblown. A study of the leading medical malpractice insurance companies' financial statements by former Missouri Insurance Commissioner Jay Angoff found that insurers artificially raised doctors' premiums and misled the public about the nature of medical negligence claims.[18]



SINCE THE TURN OF THE CENTURY, THE AMOUNT INSURERS HAVE TAKEN IN HAS INCREASED BY 120%, WHILE THE AMOUNT THEY HAVE PAID OUT HAS DROPPED 15%.

According to the study, the amount the leading malpractice insurers projected they would pay out in claims in the future declined, as did the amount they actually paid out in claims. Yet their surplus—the extra cushion they have accumulated over and above the amount they have set aside to pay claims in the future—increased to an all-time high: five times the state minimum surplus for insurer stability, as determined by state insurance regulators.

What They Were Really Making
It is possible to look back at the medical malpractice insurance industry during those "crisis" years and see a more accurate picture of their true profitability.

People unfamiliar with the insurance industry are often surprised to learn that when an insurer reports its profits for a particular year, it does so based upon these incurred losses (an educated guess of what the insurer expects to pay out in a year), not upon any money that it has actually paid out. In fact, this "loss" is actually set aside in reserves, collecting interest, until the time it is paid out. However, these losses are updated every year, and indeed, in many cases this money never actually gets paid out. Thus, paradoxically, it's possible that a company can "lose" money year after year while the company's net worth continues to grow.

Over the last five years, companies have been routinely grossly overestimating what their losses would be at the beginning, and then revising them downwards in later years. Amongst the top ten companies over the last five years, the estimated final payout has dropped by an average of 13.5 percent for each of the last five years.[19]

Average Five-Year Revision Of Incurred Losses

Rank	Group/Company Name	Average Revision
1	Medical Liability Mutual Insurance Company	-4.0%
2	Medical Protective (Berkshire Hathaway)	-23.1%
3	Doctors Company	-14.5%
4	Lexington (AIG)	-34.4%
5	Continental Casualty (CNA)	-2.9%
6	ProAssurance	-23.1%
7	Physicians' Reciprocal Insurance	6.6%
8	ISMIE	-9.4%
9	ProMutual	-13.1%
10	MAG Mutual	-17.2%
	Average	-13.5%

Medical malpractice insurers have routinely overestimated, then revised, losses. Amongst the top ten companies, the estimated final payout has dropped by an average of 13.5%.

This pattern is widespread. Nine of the top 10 medical malpractice insurers have experienced positive reserve developments (meaning projected payouts have gone down), while six of the top 10 have experienced double digit positive reserve developments. In the case of Lexington/AIG, it now says that its average estimated losses for each of the last five years are 34 percent lower than its initial estimates.

Just as insurers overstated losses during the "crisis," they understated profits.

Recalculating Profits For The Last Two Years

Rank	Company	Profit Change 1 Year	Profit Change 2 Year
1	Medical Liability Mutual Insurance Company	+9.3%	+8.1%
2	Medical Protective (Berkshire Hathaway)	+4.0%	+7.8%
3	Doctors Company	+3.2%	+4.8%
4	Lexington (AIG)	+10.2%	+20.0%
5	Continental Casualty (CNA)	-0.6%	+1.2%
6	ProAssurance	+1.1%	+65.4%
7	Physicians' Reciprocal Insurance	+10.1%	-10.9%
8	ISMIE	+3.0%	+8.4%
9	ProMutual	+4.2%	+6.8%
10	MAG Mutual	+6.1%	+12.0%
	Average Change	+5.1%	+12.4%

In 2006 and 2007 the top ten medical malpractice insurance companies actually took in profits far higher than they initially reported.

The above table indicates estimated revisions to profits over the last two years. These are not the profits for those years, but simply the amount of revision upwards or downwards. As can be seen by the table above, the medical malpractice insurance industry did much better over the last couple of years than it reported in either 2007 or 2006.

In summary, insurers' own annual statements indicate:

- They enjoyed extraordinarily high profits;
- Their initial estimates of losses over the last several years were wildly inflated;
- Their profits over the last several years have been much higher than initially reported;
- This pattern is likely to continue, with reported record profits actually underestimating ultimate actual profits.[20]

Conclusion

The medical malpractice insurance industry has used medical negligence laws to boost profits to unprecedented levels. Insurers promised such laws would result in reductions in physicians' premiums, reductions in health care premiums and reductions in health care costs. However, the only result has been a substantial increase in insurance company profits.

Medical negligence laws were passed under false pretenses. The industry used overblown losses and underreported profits to make the case for measures restricting the rights of those injured by medical negligence. Worse, the industry plans to do it again in the coming years to make up for an anticipated drop-off in financial performance caused purely by industry dynamics.

By portraying medical negligence as a potential source of savings to health care costs, the insurance industry has distracted attention from a true source of potential savings, and one which benefits all: patient safety. Preventable medical errors kill 98,000 Americans every year, and injure countless more. Any discussion of medical negligence that does not involve preventable medical errors ignores this fundamental problem. And while some interested parties would prefer to focus on doctors' insurance premiums, health care costs, or alternative compensation systems—anything other than the negligence itself—reducing medical errors is the best way to address all the related problems. Preventing medical errors will lower health care costs, reduce doctors' insurance premiums, and protect the health and well-being of patients.

Appendix:
Medical Negligence By the Numbers

2.5%	Percentage by which physician premiums are lower in states without caps than in states with caps. The average liability premium in states without caps was $43,709, but in states with caps the average premium was $44,799.[21]
3.5	Factor by which the amount insurance companies in states with caps took in exceeded the amount they paid out. In contrast, insurance companies in states without caps, took in just over twice what they paid out in 2008.[22]
12.4%	Amount by which the top 10 medical malpractice insurers understated their most recent profits two years after the fact. Insurance companies routinely underestimate profits and then revise them upwards. This is just the revision in profits, not the total profits themselves, which are even higher.[23]
24%	Percentage by which insurance company profits are higher in states with caps. When insurance companies pay out less, they keep more.[24]
30 years	The number of years for which tort reform proponent Victor Schwartz, general counsel of ATRA, contends he has never said "restricting litigation will lower insurance rates."[25]
47%	Increase in the medical malpractice insurance industry's profitability in the last 10 years.[26]
99%	Percentage of Fortune 500 companies whose profits were exceeded by the 10 largest medical malpractice insurance companies in 2008. Those 10 enjoyed profits 35 times higher than the Fortune 500 average.[27]
120%	Percentage by which the amount insurers have taken in has increased since the turn of the century. During that same time, the amount that insurers paid out has decreased by 15%.[28]
98,000	The number of patients who die each year in American hospitals due to preventable medical errors.[29]

[1] Robert Hartwig, *Medical Malpractice Insurance & The Insurance Cycle: Medical Professional Liability & the P/C Industry*, Insurance Information Institute (III) presentation to the 31st Annual Physician Insurance Association of America (PIAA) Meeting, May 15, 2008.
[2] *Report on Profitability By Line By State in 2007*, National Association of Insurance Commissioners (NAIC), 2008.
[3] Derived from *Countrywide Summary of Medical Malpractice Insurance, 1991-2008*, National Association of Insurance Commissioners (NAIC), 2009.
[4] From insurer annual reports, Insurer Expense Exhibits (IEE) Part II Allocation to Lines of Business Net of Reinsurance. Row 11, Column 42. Profits reported as a percentage of revenue; see also, *The Insurance Hoax: How Doctors and Patients Pay for the Huge Profits of Medical Malpractice Insurers*, American Association for Justice (AAJ), October 2009.
[5] Derived from data provided by *Medical Liability Monitor* (2009). A state's average premium is calculated as the unweighted mean value of premiums for all companies for which data is provided across all regions. A state is classified as having a cap when the state has enacted either a general non-economic damage cap that affects medical malpractice cases or a medical malpractice specific cap on non-economic and/or compensatory damages.
[6] Derived from *Countrywide Summary of Medical Malpractice Insurance, 1991-2008*, National Association of Insurance Commissioners (NAIC), 2009.
[7] Derived from data provided by *Medical Liability Monitor* (2002 & 2009). A state's average premium is calculated as the unweighted mean value of premiums for all companies for which data is provided across all regions. A state is classified as having a cap when the state has enacted either a general non-economic damage cap that affects medical malpractice cases or a medical malpractice specific cap on non-economic and/or compensatory damages. To maintain statistical consistency, states that changed cap status during the period in question are not included.
[8] Katherine Baicker and Amitabh Chandra, *The Effect of Malpractice Liability on the Delivery of Health Care*, National Bureau of Economic Research, Working Paper, 10709, 2004.
[9] Bernard Black, Charles Silver, David A. Hyman, and William M. Sage, *Stability, Not Crisis: Medical Malpractice Claim Outcomes in Texas, 1988-2002*, Journal of Empirical Legal Studies, 2005.
[10] *Malpractice Insurer Fails in Bid for Rate Hike*, Houston Chronicle, November 21, 2003; *Insurer Switching to Unregulated Product to Raise Premiums*, Associated Press, April 10, 2004; *House Members Upset More Doctors Not Getting Relief*, Associated Press, April 22, 2004.
[11] The Chicago Tribune, January 3, 2005; American Insurance Association press release, March 13, 2002.
[12] Palm Beach Post, January 29, 2003.
[13] Liability Week, July 19, 1999; Business Insurance, July 19, 1999.
[14] *Annual Underwriter Survey, 2008*, Lloyd's, February 2008, http://www.lloyds.com/NR/rdonlyres/A188EF2B-6E6D-4394-ABF3-1A3DC8A580C8/0/AnnualUnderwriterSurveyResults2008.pdf.
[15] Robert Hartwig, *Medical Malpractice Insurance & The Insurance Cycle: Medical Professional Liability & the P/C Industry*, Insurance Information Institute (III) presentation to the 31st Annual Physician Insurance Association of America (PIAA) Meeting, May 15, 2008.
[16] Over the last three years (2006-2008) premiums for single coverage have increased 6.8% in state without caps, versus 7.8% in states with caps – *Medical Expenditure Panel Survey – Insurance Component*, U.S. Department of Health and Human Services (HHS), http://www.meps.ahrq.gov/mepsweb/index.jsp.
[17] Eric Torbenson and Jason Roberson, *Tort Reform: Debate Still Thrives Over Limit on Damages in Texas Malpractice Suits*, Dallas Morning News, June 17, 2007.
[18] Jay Angoff, *No Basis for High Insurance Rates*, May 2007, http://www.justice.org/resources/No_Basis_for_High_Insurance_Rates_2007.pdf.
[19] *The Insurance Hoax: How Doctors and Patients Pay for the Huge Profits of Medical Malpractice Insurers*, American Association for Justice (AAJ), October 2009.

[20] *The Insurance Hoax: How Doctors and Patients Pay for the Huge Profits of Medical Malpractice Insurers*, American Association for Justice (AAJ), October 2009.
[21] Derived from data provided by *Medical Liability Monitor* (2009). A state's average premium is calculated as the unweighted mean value of premiums for all companies for which data is provided across all regions. A state is classified as having a cap when the state has enacted either a general non-economic damage cap that affects medical malpractice cases or a medical malpractice specific cap on non-economic and/or compensatory damages.
[22] Derived from *Countrywide Summary of Medical Malpractice Insurance, 1991-2008*, National Association of Insurance Commissioners (NAIC), 2009.
[23] *The Insurance Hoax: How Doctors and Patients Pay for the Huge Profits of Medical Malpractice Insurers*, American Association for Justice (AAJ), October 2009.
[24] Derived from *Countrywide Summary of Medical Malpractice Insurance, 1991-2008*, National Association of Insurance Commissioners (NAIC), 2009.
[25] Liability Week, July 19, 1999; Business Insurance, July 19, 1999.
[26] *Report on Profitability By Line By State in 2007*, National Association of Insurance Commissioners (NAIC), 2008.
[27] From insurer annual reports, Insurer Expense Exhibits (IEE) Part II Allocation to Lines of Business Net of Reinsurance. Row 11, Column 42. Profits reported as a percentage of revenue; see also, *The Insurance Hoax: How Doctors and Patients Pay for the Huge Profits of Medical Malpractice Insurers*, American Association for Justice (AAJ), October 2009.
[28] Jay Angoff, *No Basis for High Insurance Rates*, May 2007, http://www.justice.org/resources/No_Basis_for_High_Insurance_Rates_2007.pdf.
[29] *To Err is Human*, Institute of Medicine, November 1999.