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Consumer Group Issues Two New Studies On Medical Malpractice Insurance; Studies Undermine Leading Arguments for “Tort Reform”

New York - Americans for Insurance Reform (AIR), a coalition of nearly 100 consumer and public interest groups representing more than 50 million people, today published two major new studies of the medical malpractice insurance industry. *Stable Losses/Unstable Rates 2016* finds that medical malpractice premiums and claims per doctor are currently at their lowest level since data were first recorded four decades ago. *Premium Deceit 2016: The Failure of “Tort Reform to Cut Insurance Prices*, finds that state limits on patients’ legal rights have no impact whatsoever on insurance rates for doctors.

These studies come at a critical time for health care in America, with new Congress and the President-elect both indicating they will push for repeal of the Affordable Care Act. Medical malpractice “tort reform” proposals, which strip injured patients of their legal rights and undermine the authority of local juries, have been part of many ACA replacement bills. They are also part of U.S. House Speaker Paul Ryan’s published anti-Obamacare plan, which asserts that such measures are needed to reduce high insurance costs for doctors to keep them in practice. The AIR studies show such arguments to be entirely baseless.

Written by AIR co-founders J. Robert Hunter, Director of Insurance for the Consumer Federation of America, and Joanne Doroshow, Executive Director of the Center for Justice & Democracy, *Stable Losses* and *Premium Deceit* also demonstrate how the medical malpractice insurance industry manufactures liability insurance crises for America’s doctors, price-gouging them with skyrocketing rates.

“Forty years of inflation-adjusted data show that medical malpractice claims and premiums are the lowest they have been in this entire period,” said Hunter. “The periodic premium spikes we saw in the data, such as in the mid-1970s, the mid-1980s and between 2002 and 2006, were not related to claims changes but to the economic cycle of insurers and to drops in investment income. The last crisis ended a full decade ago and insurance rates for doctors have been dropping like a rock ever since. This is true whether or not a state enacted severe medical malpractice tort restrictions. In fact, states that resisted adopting such harsh measures saw a greater drop in average medical malpractice insurance rates than states that passed them.”

Doroshow added, “Federal medical malpractice proposals in ACA replacement bills, such as ‘caps’ on compensation for injured patients, are bad policies because they place incredibly cruel and unfair limits on the constitutional rights of everyday Americans. Our studies show that such measures would do nothing to lower malpractice premiums for doctors, which are already at historic lows. They will serve only to line the pockets of insurance companies, reduce the quality of our nation’s healthcare, and increase the deficit as injured victims would be forced to turn to government health and disability programs for help.”

Major findings are as follows:

Stable Losses/Unstable Rates 2016.

- When adjusted for medical care inflation, both premiums and claims per physician are currently at their lowest level in four decades.
- When adjusted by urban consumers CPI index (a more conservative inflationary adjustment) premiums are the lowest they have ever been, and claims are at their lowest since 1982.
- Total medical malpractice payouts have never spiked and have generally tracked the rate of inflation, while premiums for doctors have sharply increased three times over the last 40 years: 1974-1977; 1985-1988, and; 2002-2006.
- At no time were these three periods of severe rate hikes (i.e. “hard” insurance market) connected to any increase in claims or tort system costs, which have remained stable.

Premium Deceit 2016; The Failure of “Tort Reform” To Cut Insurance Prices

Examining the impact of “tort reforms” and “caps” on damages enacted in response to the 2002-2006 medical malpractice insurance crisis, AIR finds:

- States that enacted new limits on patients’ legal rights in medical malpractice cases saw an average 22.7 percent decrease in pure premiums from 2002 to the present – but states that did nothing saw a larger average drop of 29.5 percent.
- States that enacted only caps on damages saw an average 21.8 percent decrease in pure premiums from 2002 to the present – but the states that did nothing saw an even greater average drop of 28.9 percent.

Both studies: Severe rates hikes experienced by doctors during the three past insurance crises were not the result of exploding claims or tort system costs but rather the industry’s own boom and bust economic cycle, dictated by the state of the economy and insurance industry profitability, including bond and stock market gains or losses.

Copies of the studies can be found here:

Stable Losses/Unstable Rates 2016:

<http://centerjd.org/content/stable-losses-unstable-rates-2016>

Premium Deceit 2016: The Failure of “Tort Reform to Cut Insurance Prices:

<http://centerjd.org/content/premium-deceit-2016-failure-tort-reform-cut-insurance-prices>

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