

The Whole Truth About Medical Malpractice and Insurance

Fact #1: Did you know Insurance Reform is the only way to reduce excessive malpractice insurance rates?

- Insurance reform contained in the 2005 legislation was working, not the caps.
- Insurance reforms, not the caps, directly addressed the issues of abuses in the insurance industry, which have been a major factor in leading to higher insurance rates.
- The long-suppressed insurance reforms contained in this legislation have resulted in a 5.2 percent reduction (3.5 percent initially ordered by Michael McRaith, Director of the Illinois Department of Insurance on March 14, 2006) of malpractice premiums and should be heralded as taking a very necessary step in protecting doctors and patients.
- The law forced malpractice insurance companies to provide greater transparency on rate-setting and payouts that has in turn spurred competition, motivated more companies to enter the marketplace, and lowered premiums for doctors.
- Thanks to the insurance reforms, Michael McRaith, Director of the Illinois Department of Insurance said "For the first time in the history of the state, [malpractice] insurance companies that want to compete for business in Illinois have access to actuarial information and loss and claims data...We see more companies coming in and a stabilization or decline in actual rates."

It's time to move forward with
REAL insurance reform.

www.InsuranceReformIllinois.org

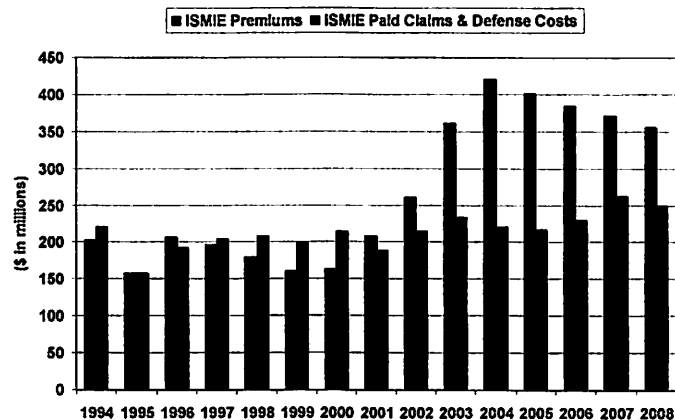
*See the February 20, 2010, statement from the Director of Insurance urging insurers to comply with 2005 insurance reforms. http://www.insurance.illinois.gov/newsr/s/2010/02202010_a.asp

* For more information regarding insurance reform, see ITLA's white paper "The Whole Truth About Medical Malpractice and Insurance" pages 18-22.

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Fact #2: Did you know Illinois' largest malpractice insurer's payouts have remained flat for over a decade?

- Illinois' largest malpractice insurer's own data shows payouts have remained flat for the past 13 years, while premiums and profits skyrocketed.
- Medical malpractice insurance rate increases between 2000 and 2005 resulted in record insurance company profits and gold-plated compensation packages for insurance executives.
- Medical malpractice claims were not responsible for the increase in insurance rates. Insurance companies have admitted that business conditions and diminished returns on financial investments were to blame.
- While seeking the damages cap before the General Assembly in 2005, Illinois' largest malpractice insurer promised lower rates for doctors when a cap was passed. Yet, in 2007 and 2008, they kept their rates "steady."



* For more information regarding insurance reform, "The Whole Truth About Medical Malpractice and Insurance" pages 4-17 available at http://www.iltla.com/pdf/WhitePaper_TheWholeTruth_Feb2010.pdf

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Fact #3: Did you know Illinois Department of Insurance has reported medical malpractice insurance reforms were working?

- The insurance reforms contained in the 2005 legislation were working. So much so that the Director of the Department of Insurance is encouraging insurers go comply with the reforms after the law has been overturned.
- According to a February 20, 2010 press release issued by the Illinois Department of Insurance, "The 2005 Reform Laws imposed changes to the Illinois Insurance Code that improved insurer reporting and transparency requirements and enhanced the Department's rate oversight authority."
- According to this same press release, since 2005 the Illinois Department of Insurance cites improvements in the medical malpractice insurance market, in particular they observed: a decrease in medical malpractice premiums, an increase in competition among companies offering medical malpractice insurance, and the entry into Illinois of new companies offering medical malpractice insurance.



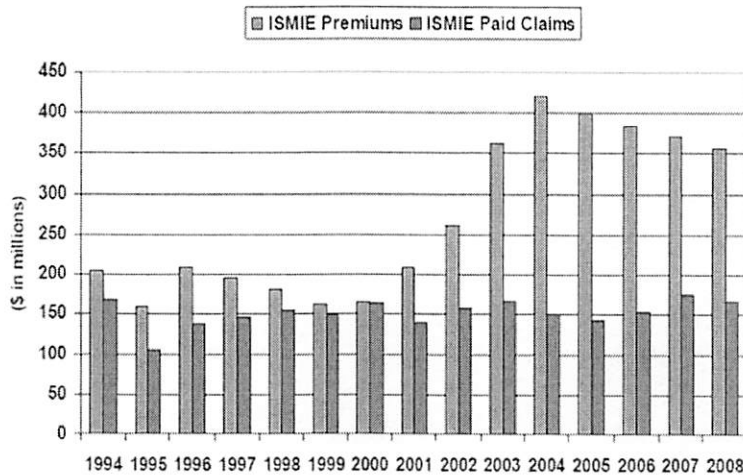
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Fact #4: Did you know the dramatic increases in malpractice insurance rates in the years leading up to 2005 were not needed to pay claims, because there was no increase in claims?

- ISMIE'S own data clearly shows that there was NO increase in paid claims. In fact, the number of paid claims was actually stable or even decreasing prior to 2005.
- Tort reform advocates, including American Tort Reform Association general counsel Victor Schwartz, admit that frivolous medical malpractice suits against doctors are uncommon, "There is no question that it is very rare that frivolous suits are brought against doctors. They are too expensive to bring."
- After the cap became law, ISMIE representatives admitted under oath that there was no actual data to support its claim of an increase in frequency of claims.
- According to statements filed with the Department of Insurance, ISMIE's total annual payouts have been stable while it has collected twice as much or more in premiums each year.



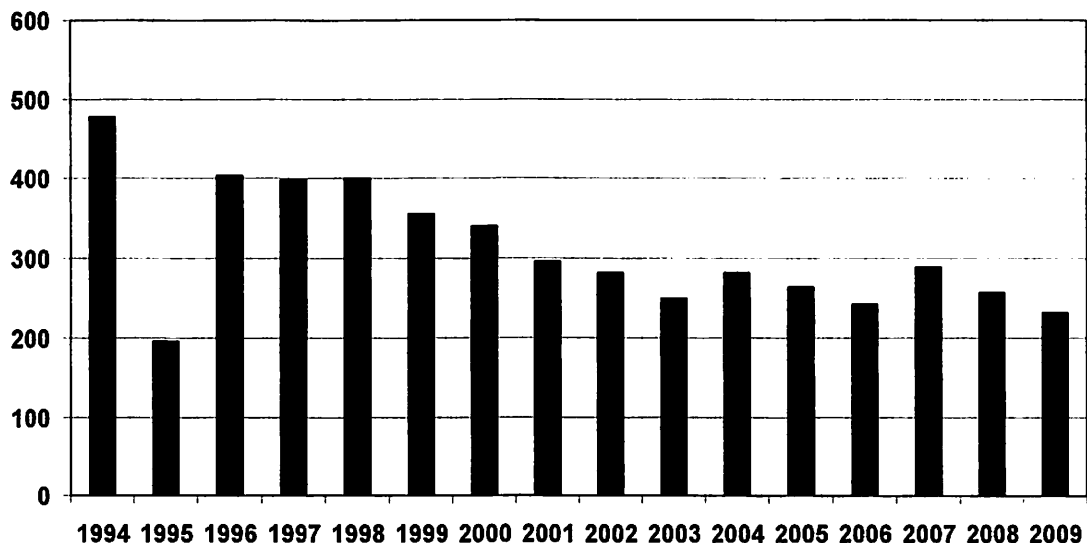
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Fact #5: Did you know malpractice insurance rates dramatically increased while the number of claims paid and the total amount of paid claims have not?

- ISMIE was enjoying record profits while raising malpractice rates for doctors.
- Malpractice insurance rates were skyrocketing while ISMIE's own data, filed with the Department of Insurance, showed claims and payouts were stable or even decreasing.
- ISMIE representatives admitted under oath that they had no actual data to support the assertion of an increase in claims or payouts.
- In 2009, ISMIE reported the lowest number of claims paid since 1995.
- Also in 2009, ISMIE reported the lowest total amount of paid claims since 1995.

ISMIE - Number of Claims Paid by Year

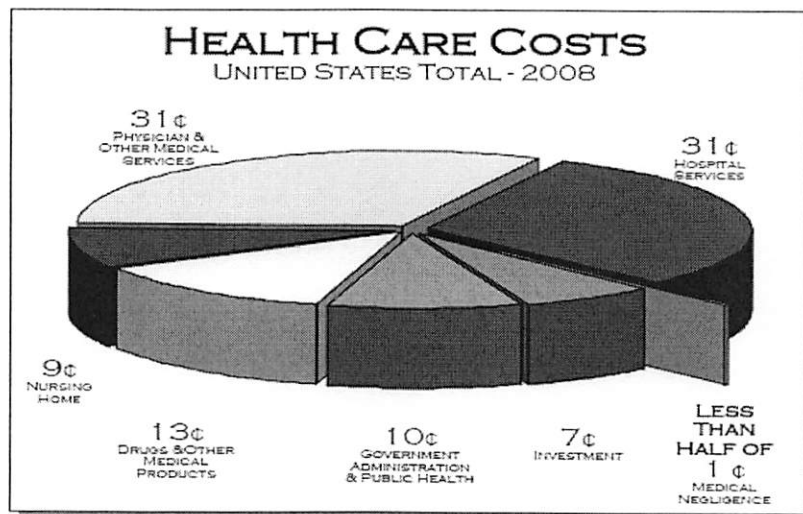


* For more information regarding insurance reform, see "The Whole Truth About Medical Malpractice and Insurance" pages 8-10 available at http://www.iltla.com/pdf/WhitePaper_TheWholeTruth_Feb2010.pdf

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Fact #6: Did you know independent authoritative studies have shown that medical malpractice claims have little effect on overall health care costs?

- Malpractice claims boost overall health care costs no more than a tiny percentage according to the Congressional Budget Office.
- The Congressional Budget Office has also concluded that the most anti-patient medical malpractice "reforms" may lead to poorer health care and worse patient outcomes.



Source: Personal Health Care Expenditures taken from the Centers of Medicare and Medicaid Services.

- For more information regarding insurance reform, see "The Whole Truth About Medical Malpractice and Insurance" pages 31-33 available at http://www.iltla.com/pdf/WhitePaper_TheWholeTruth_Feb2010.pdf

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Fact #7: Did you know medical malpractice is one of the leading causes of death in the United States?

- The Institute of Medicine has estimated as many as 98,000 people die each year from preventable medical errors.
- The Congressional Budget Office has estimated that over 180,000 people are injured every year by medical errors.
- The most direct way to reduce medical malpractice claims and lawsuits is to reduce the incidence of malpractice.

LEADING CAUSE OF DEATH IN THE UNITED STATES

1.	Heart Disease	652,091
2.	Cancer	559,312
3.	Stroke	143,579
4.	Chronic lower respiratory disease	130,933
5.	Accidents (unintentional injuries)	117,809
6.	PREVENTABLE MEDICAL ERRORS	98,000
7.	Diabetes	75,119
8.	Alzheimer's disease	71,599
9.	Influenza/Pneumonia	63,001
10.	Nephritis/Nephrosis	43,901

Source: Medical Negligence: A Primer for the Nation's Health Care Debate by the American Association for Justice

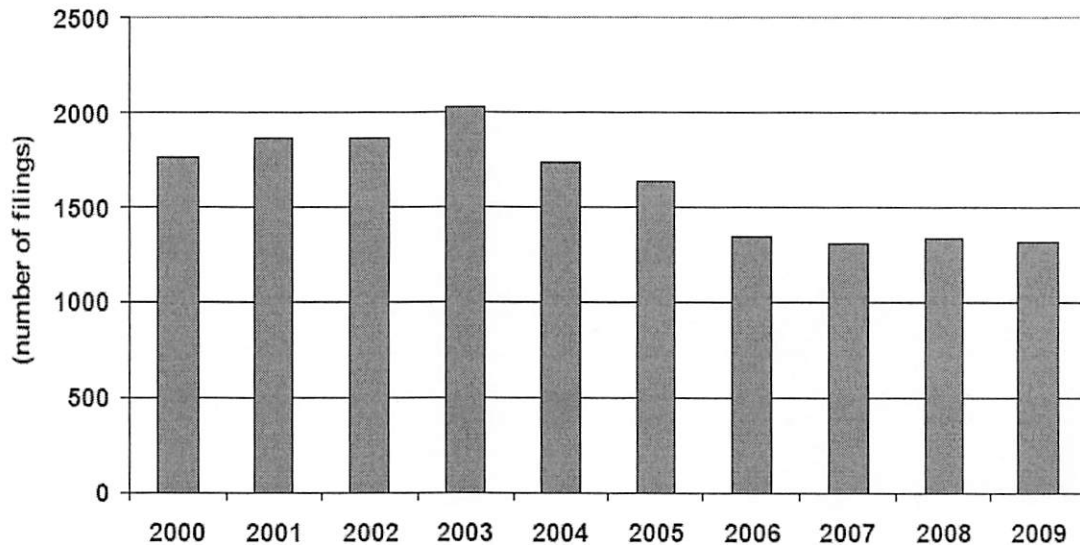
- For more information regarding insurance reform, see "The Whole Truth About Medical Malpractice and Insurance" pages 33-35 available at http://www.iltla.com/pdf/WhitePaper_TheWholeTruth_Feb2010.pdf

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Fact #8: Did you know the medical malpractice “lawsuit crisis” is a myth?

- The National Center for State Courts showed the number of medical malpractice cases filed nationally between 1996 and 2006 dropped by 8 percent.
- Court records show that medical malpractice lawsuits in Illinois steadily decreased before the enactment of the damages caps in 2005 and thereafter.

Illinois Med Mal Lawsuit Filings by Year



- For more information regarding insurance reform, see "The Whole Truth About Medical Malpractice and Insurance" pages 4-8 available at http://www.iltla.com/pdf/WhitePaper_TheWholeTruth_Feb2010.pdf

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Fact #9: Did you know medical malpractice claims have little effect on hospitals' bottom line?

- Hospitals have been prospering financially and enjoying record profits, without caps having had any impact.
- Analysis of verdict data showed that noneconomic damages awards against hospitals declined from 2002-2003.
- Hospitals have said that insurance and investment markets – not tort claims – are the reason for any financial difficulties they may have faced in the past.
- Hospitals are the subject of news stories - and not because of a medical malpractice crisis. In fact, hospitals are making news because of the millions of dollars they are spending, makes it hard to believe that these hospitals are cash strapped.
 - Loyola University Health System is spending nearly \$50 million to open a center in a southwest suburb next year that will offer everything from heart care to aquatic therapy (*Crain's Chicago Business*, February 22, 2010).
 - Northwestern recently opened a luxurious \$507 million women's hospital featuring "spectacular lake views and 42-inch flat-screen televisions loaded with movies to order" (*Crain's Chicago Business*, October 8, 2007).
 - The Rehabilitation Institute of Chicago recently announced it purchased the property upon which it will be building a new hospital, costing several hundred million dollars (*Chicago Tribune*, December 15, 2009).

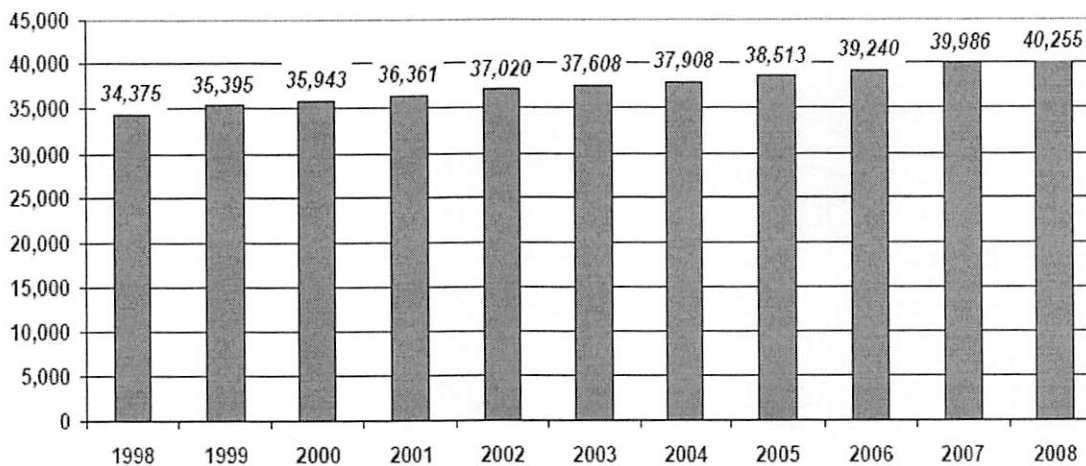
- For more information regarding insurance reform, see "The Whole Truth About Medical Malpractice and Insurance" pages 22-24 available at http://www.iltla.com/pdf/WhitePaper_TheWholeTruth_Feb2010.pdf

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Fact #10: Did you know the number of doctors in Illinois has steadily increased over the past decade?

- The number of physicians licensed and engaged in “patient care” in Illinois has *never* declined in the past 45 years.
- In 2005, when the cap went into effect, the myth of doctors fleeing abruptly stopped. Rather odd considering there was no immediate drop in the high malpractice insurance rates – which was the reason why doctors were supposedly leaving the state.
- Illinois also has more doctors per capita than three other states – California, Ohio and Texas – frequently cited by tort reformers because of their damage caps.

Number of Doctors in Illinois by Year



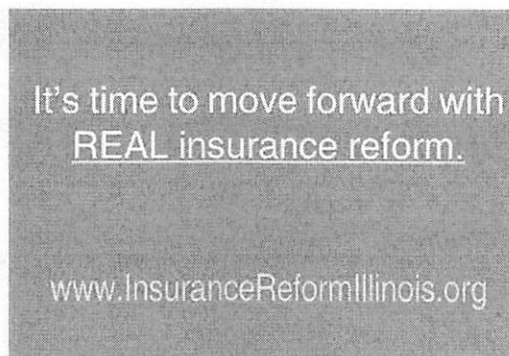
Source: Physician Characteristics and Distribution in the U.S., Various Editions,
American Medical Association

- For more information regarding insurance reform, see “The Whole Truth About Medical Malpractice and Insurance” pages 25-30 available at http://www.iltla.com/pdf/WhitePaper_TheWholeTruth_Feb2010.pdf

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Fact #11: Did you know that the tales of a medical malpractice "crisis" is a ten-year cyclical occurrence?

- The same cries of a medical malpractice "crisis" were heard in 1975, 1985, 1995 and 2005 – a ten-year repeating pattern that proves the fact that insurance rates are related to insurance business cycles and investment income rather than to malpractice claims.
- In response to each tale of "crisis" Illinois adopted laws restricting patients rights. And each time the courts held those laws unconstitutional.
- The insurance industry's own data show that medical malpractice claims and lawsuits in Illinois are stable.
- After the most recent "crisis" it is even clearer that medical malpractice insurance rates are based on insurance company business decisions, investment income and other economic factors.



- For more information regarding insurance reform, see "The Whole Truth About Medical Malpractice and Insurance" pages 35-36 available at http://www.iltla.com/pdf/WhitePaper_TheWholeTruth_Feb2010.pdf