



IOWA MEDICAL SOCIETY

Working for Iowa physicians and their patients

**Iowa General Assembly
Medical Malpractice Interim Committee
Written Statement
October 5, 2005**

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The Iowa Medical Society appreciates the opportunity to present information to the Medical Malpractice Interim Study Committee on this issue of primary importance to our 4,600 physician members. ***The core purpose of the Iowa Medical Society is to assure the highest quality health care in Iowa through our role as physician and patient advocate.*** “The charge of the Committee is to study issues relating to the costs of professional liability (malpractice) insurance coverage for health care providers in Iowa, and to consider a broad range of factors affecting the availability of the coverage in the state.” The Iowa Medical Society offers the following information to assist the Committee in their fact finding and analysis of the accessibility and affordability of professional liability insurance in Iowa.

The Iowa Medical Society (IMS) has been focused on the impact of rising medical liability costs on physicians’ practices for several years. In 2002, IMS participated in a series of meetings held by then Commissioner of Insurance, Therese Vaughan, on the same issues of accessibility and affordability of professional liability insurance. IMS was particularly concerned about the impact on Iowa physicians of a major medical liability carrier exiting the market.

Those concerns were driven by St. Paul’s announced withdrawal from the medical liability market that would affect 2,039 physicians; 1,154 other allied health care providers (i.e., nurses and nurse practitioners); 40 hospitals; and 174 other facilities (i.e., nursing homes) as well as the growing concerns regarding the national liability insurance picture based on the experiences of physicians in 12 states facing an availability and affordability crisis related to medical liability insurance. These 12 states were the original states featured on the American Medical Association’s (AMA) “Crisis Map.” The attached map now includes 20 states in a full-blown medical liability crisis across the nation. In crisis states, patients continue to lose access to care. In many of these states, obstetricians and rural family physicians no longer deliver babies. Meanwhile, high-risk specialists no longer provide trauma care or perform complicated surgical procedures.

Iowa is a state that is showing signs of a crisis. The national trends for limited access to care have come to Iowa as evidenced through information obtained through an annual survey conducted by IMS in 2004 and 2005. Because of the ongoing concerns raised by our physician members, medical liability reform remains to this day a major legislative priority for the AMA and IMS.

When St. Paul pulled out of the market in 2002, over 2,000 Iowa physicians scrambled for coverage. Since then, Iowa has experienced very little competition among liability carriers. The

lack of competition, limited capacity, and severity of jury verdicts in Iowa appear to have resulted in carriers who cannot or will not insure particular risks in Iowa. In fact, carriers admit

that this has resulted in a dramatic tightening of underwriting standards, which has left many physicians struggling to find and maintain adequate medical liability coverage.

The first IMS survey of physicians regarding their experiences with medical liability insurance was conducted in February 2004. The IMS survey found that in 2002 and 2003, eighteen percent (18%) of Iowa physicians were dropped by a carrier; twenty-five percent (25%) were refused a quote when searching for a new carrier; several clinics were told that certain members of their group would not be included in their quote; and some physicians were forced to find coverage in the excess or non-standard market where premiums are very high. Fifty-two percent (52%) of Iowa physicians reported that their coverage was reduced and/or deductibles were increased to maintain access to medical liability insurance. As a result of this, some providers were forced to carry the lowest level of coverage they can carry and still maintain hospital privileges. These results reflect the impact of the St. Paul exit from the medical liability market and the problems associated with accessibility and affordability of medical liability insurance in Iowa.

Survey on Medical Liability Insurance – 2005

Between January 5 and February 3, 2005, the Iowa Medical Society surveyed 500 IMS physician members regarding their experiences with medical liability insurance in Iowa. This was the second annual survey conducted by the Iowa Medical Society regarding medical liability insurance in Iowa. The survey was sent to 1,750 members via e-mail and completed by 500, yielding a 29% response rate. Based on the 500-physician sample, the margin of error is ± 4.5 percentage points. This means if the survey were replicated 19 out of 20 times, the results would be within 4.5 percentage points of these results at the 95% confidence level.

With a few minor exceptions, the opinions expressed by physicians in this most recent IMS survey on medical liability issues are similar to those views expressed one year ago. While fewer physicians tell IMS their medical liability insurance premiums are skyrocketing, the plurality of physicians continue to maintain that high liability costs impact how they practice medicine in Iowa. Specifically, the survey found:

Premiums are not increasing as dramatically as in previous years. Either the overall shock of medical liability insurance premium increases has worn off or Iowa premiums are stabilizing slightly. The survey found only 68% of physician members say they had experienced a significant increase in their medical liability insurance premiums *in the last two years*. This is a decrease from last year when 89% of physicians reported they had experienced a significant premium increase. Similarly, this year 13% of physicians responded that they decreased the dollar amount of their coverage in the last two years, as compared to 29% of physicians who indicated they had done so last year.

This possible stabilizing of the market does not mean that Iowa physicians are not experiencing premium increases. A neurologist from the Quad Cities summed up his struggles with increasing premiums as follows:

Our premiums went up 80% this year; the insurance company told us it was because we are "surgeons" who perform lumbar punctures; our carrier almost forced us to drop all practice in Illinois or they would drop us; we sold our practice to the hospital to protect us from liability and HMOs that are pursuing a scorched earth policy here.

For those physician practices experiencing increases, the financial impact is dramatic and impacts their ability to continue to offer certain procedures and services to their patients.

The medical liability insurance crisis is changing how physicians practice medicine.

Three in ten doctors (30%) say they have changed the type of cases they treat because of rising medical liability insurance premiums or increased risk of suit. This reduction of services is occurring in all high-risk areas. An anesthesia and pain management physician shared that:

We no longer provide intracranial surgery to our patients in Cedar Rapids. We are considering limiting our VBAC anesthesia coverage in our city.

Limiting services offered is not the only way Iowa physicians are changing how they practice medicine. Iowa physicians continue to tell IMS they are ordering more tests and/or consultations for patients because of concerns about malpractice claims. Nearly seven out of ten (68%) Iowa physicians claim to be practicing what has commonly become known as “defensive” medicine. This proportion is identical to that found in the IMS survey in 2004. Regarding the practice of defensive medicine, one family physician stated:

I personally, as do many of my colleagues, order many more diagnostic studies strictly because of “what if I miss something.” In reality, oftentimes the likelihood of finding something is rather remote, but nowadays you can’t take a chance.

Of note, while the proportion of Iowa doctors admitting to practicing defensive medicine is quite high – it is actually *slightly lower than* the national average. When a national sample of physicians are asked a similar question, the percentage admitting to practicing defensive medicine hovers around 75%.

With this additional stress, early retirement looks more appealing. The high medical liability insurance premiums and threat of suit continue to take a toll on Iowa physician job satisfaction. Over four in ten (43%) physicians say they are considering retiring from medicine earlier than they had planned due to medical liability concerns. This proportion is up eight percentage points from one year ago when three in ten (35%) expressed this sentiment. A family practice/urgent care physician indicated he would likely retire early, saying:

My medical liability premium was \$3,000.00 in 2003 and went up to \$31,000.00 in 2004. This is scary. I cannot quit yet but I am contemplating quitting and I have made arrangements for a non-medical business.

It appears from our analysis of the data that the Iowa crisis has not worsened in the last year but stabilized. Nonetheless, physicians are reporting that the fear of suit and rising medical liability premiums continue to impact how they practice medicine in Iowa. In addition, there are specialties that are impacted significantly in Iowa and across the nation. According to the Congressional Budget Office (CBO), premiums for some specialties saw dramatic increases: 22% for obstetricians/gynecologists and 33% for internists and general surgeons. It is noteworthy that even larger clinics and academic centers that self-insure to keep medical liability insurance costs down are experiencing notable increases in their costs as reinsurance and increasing jury awards drive up expenses.

Despite an apparent stabilization in the last year, the rising premiums have impacted the access to care in Iowa as physicians have not stopped practicing medicine but have chosen to not

perform deliveries, certain surgical procedures and cut back their practices on the advice of their insurance carriers.

Impact on access and patients' quality of health care

No competent, licensed, actively practicing physician should have to limit or leave practice solely because professional liability coverage is not available. Iowa has a very fragile health care infrastructure. Iowa's physician-to-patient ratio ranks 49th out of 50 states plus the District of Columbia; 46th in pediatrician-to-child ratio; 48th in internal medicine; 50th in orthopedics; 50th in obstetrician/gynecologist-to-live births; and 51st in emergency medicine. These ratios make every physician incredibly valuable. So, when even one physician stops practicing in Iowa or limits services because of high medical liability insurance, it threatens patient access, quality of care, and cost.

For Iowans, the impact of increasing costs related to medical liability insurance means that some physicians are cutting back services to obtain quotes or lower rates. Some family doctors will no longer do sigmoidoscopies to look for colon cancer in the lower part of the large bowel. Other physicians will no longer deliver babies. This can be devastating to pregnant women in rural areas. In one town, the only neurosurgeon will no longer staff an emergency room, so accident victims have to take a helicopter to Iowa City (which delays critical care). Our IMS surveys show 26% of physicians are planning to or have ceased to practice certain high-risk specialties, including 17% ceasing trauma and other surgeries, 7% who report discontinuing delivery of babies, and 7% stopping emergency room care. IMS has been told that physicians are limiting other services, including providing on-call duty to hospitals.

Especially in rural areas, this threatens Iowans' access to care. Cedar Rapids is a community that has been hit particularly hard. A Cedar Rapids obstetrician and a family physician have been forced to discontinue obstetrical care because they cannot afford the medical liability insurance. The community lost two emergency room doctors due to liability insurance issues, and Cedar Rapids can no longer provide treatment for head trauma because liability insurance premiums make it impossible for neurosurgeons to provide this care. These patients now must be transferred to Iowa City. Another physician in Davenport who sees a large number of HIV/AIDS patients has quit putting in central venous access or placing pulmonary artery catheters because the increased medical liability insurance premium to provide this service is more than the reimbursement. Now his office contracts out these services for patients, which is costing the health care system three times the cost.

While the dollar amount of medical liability premiums paid in Iowa may not appear to be as severe as those paid in other key crisis states, the cost of medical liability insurance cannot be divorced from Iowa's overall health care delivery system. Iowa has one of the highest per capita ratios of Medicare beneficiaries while having some of the lowest Medicare reimbursement rates in the country. Iowa Medicaid pays even less. Further, Iowa health insurance has one primary payer with significant market share, Wellmark Blue Cross & Blue Shield, which essentially sets its own rates and often ties its payments to the already low Medicare payments. The combination of insufficient reimbursement and significant increases in medical liability insurance intensifies the impact of these premium increases as physician practices struggle to remain a viable part of the Iowa economy. This threatens the financial viability of Iowa medical practices, particularly small practices in rural communities. A 4.3% cut in Medicare reimbursement beginning on January 1, 2006 is scheduled if Congress does not act before they adjourn. Iowa physicians will lose up to \$24M in reimbursement if the cut goes into effect early next year. This

will place further stress on an already fragile health care infrastructure because of rising costs of practicing medicine and low reimbursement from all payers – federal, state, and private.

In conclusion, there is a strong case to be made that Iowa has experienced significant impacts because of the rising costs of medical liability insurance. Physicians in Iowa have experienced significant challenges in locating affordable medical liability insurance as carriers use increasing tough underwriting standards to address their capacity limits and factor in the severity of awards in Iowa. Physicians are limiting the scope of their professional practices; giving up their practices in favor of employment that includes professional liability insurance as a benefit, and retiring earlier. Because there is no reasonable predictability in medical liability insurance premiums and, given the health care reimbursement that continues to pay Iowa providers among the lowest reimbursement in the nation, physicians are finding it difficult to absorb these increased costs into their practices and plan for these increases on a yearly basis. The future of medicine and health care in Iowa is at stake if steps are not taken to increase the accessibility and affordability of medical liability insurance in Iowa.