

The Medical Liability Environment in Pennsylvania

Medical liability reform is necessary to support patient access to health care and to help reduce health care costs.

Cost of Medical Liability Coverage

The total cost (primary premiums, Mcare assessment, and excess premiums) of medical liability insurance coverage for Pennsylvania's hospitals has stabilized since 2007, but still remains two times higher than in 2000 (119% increase in 9 years).

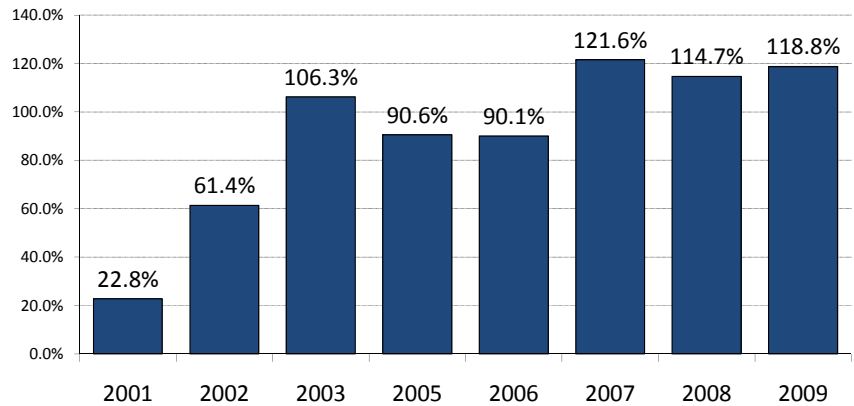
Access to Health Care¹

- Recruitment of new physicians is increasingly more challenging.
- Medical residents are more likely to choose permanent practice sites outside of Pennsylvania.
- The most affected services are obstetrics/gynecology, orthopedics, neurology, neurosurgery, and general surgery.
- Hospitals continue to report adding medical staff to their facility's liability policy. Nine out of ten hospitals continue to cover some portion of their medical staff under their medical liability policy.

Current Liability Insurance Marketplace in Pennsylvania

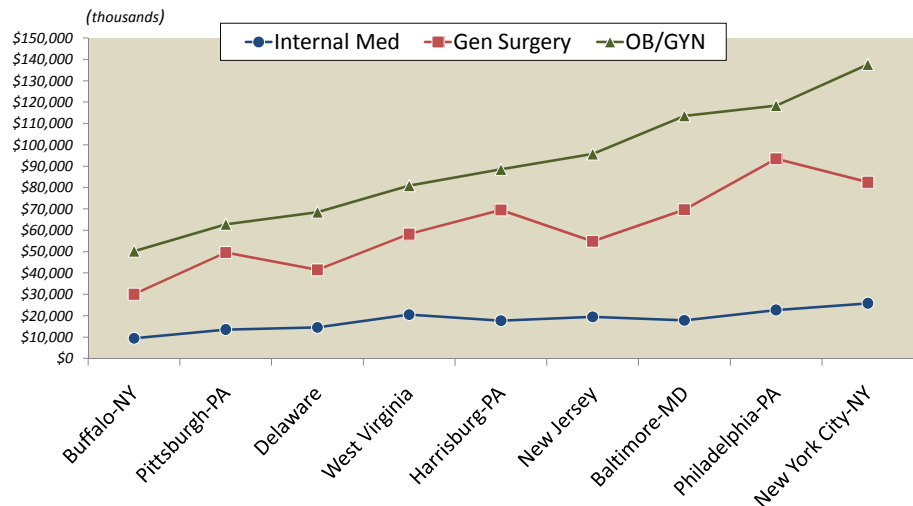
- Almost all hospitals (90 percent) rely on self-insurance for primary medical liability coverage.
- The Pennsylvania Supreme Court reports that there has been a 41.4 percent decline in filed medical liability claims since the enactment of HAP-supported reforms during 2002.

Percent Change in Total Medical Liability Premiums Compared to 2000



Source: HAP Statewide membership survey on Medical Liability

2009 Medical Professional Liability Premiums



NOTE: All rates are for \$1M/\$3M coverage, except New York State where limits are \$1.3M/\$3.9M.

Source: Medical Liability Monitor, October 2009, Vol. 34, No. 10

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- Mcare Fund paid claims peaked in 2003 at nearly \$379 million and have declined to \$174 million during 2008. Payouts in 2009 rose to \$191 million. The reduction is primarily the result of legislative reforms that began in 1997 that decreased the Mcare Fund coverage from \$1 million to \$500,000 per occurrence.



Impact on Health Care Costs

The Congressional Budget Office estimates that the direct costs that providers will incur in 2009 for medical liability coverage will total approximately \$35 billion, or about 2 percent of total health care expenditures. They estimate that medical liability reforms could lower premiums for medical liability insurance by 10 percent.²

Strong Public Support for Medical Liability Reform

Americans overwhelmingly support meaningful medical liability reform and agree that changes to our nation's broken medical liability system should be included in federal health care reform legislation. According to a national poll, 62% of those surveyed responded that they want their elected representatives in Washington to support national comprehensive medical liability reform legislation. Further, 72% of survey respondents were concerned that a lack of doctors might impact the availability and quality of the care they receive. Seventy percent support a law that guarantees full payment for lost wages and medical expenses, but places reasonable limits on non economic damage awards.³

State Budget Pressures Impact Mcare Fund Results in Legal Challenges

Funds from the Health Care Provider Retention Account (HCPRA) that were not used to fully fund the Mcare abatement program, and the Mcare Fund were used to help balance the state's budget.

- Transferred \$708 million from the HCPRA to the General Fund.
- Redirected cigarette tax revenues (\$170 million/year) from the HCPRA to the General Fund.
- Redirected Auto CAT Fund surcharge (\$44 million/year) from the Mcare Fund to the General Fund.
- Transferred \$100 million from the Mcare Fund to the General Fund.

These actions leave insufficient funds to address the retirement of the Mcare Fund at this time. In 2008 and 2009, HAP and the Pennsylvania Medical Society initiated several legal actions regarding the Mcare Fund that if successful would help to provide funds to retire the Mcare Fund and lower medical liability costs.

What More Needs to be Done?

- Retirement of the Mcare Fund and its unfunded liability.
- Passage of new joint and several liability reform.
- A "physician-friendly" Pennsylvania.
- Limits on non-economic damages.
- Implementation of Alternative Dispute Resolution Systems.

¹ HAP Statewide Medical Liability Survey, November 2009

² Congressional Budget Office, Washington, DC, October 9, 2009

³ Health Coalition on Liability and Access, Washington, DC, October 2009