

Estimating the effect of Damage Caps in Medical Malpractice Cases

No Cap and Inflation adjusted states highlighted in Tan:

Rank	State	Medical Negligence non-eco	Inflation	Total Medical Negligence	Important Notes
1-21 Equal Rank	AL	NO CAP		NO CAP	
	AR	NO CAP		NO CAP	
	AZ	NO CAP		NO CAP	
	CT	NO CAP		NO CAP	
	DC	NO CAP		NO CAP	
	DE	NO CAP		NO CAP	
	IA	NO CAP		NO CAP	
	KY	NO CAP		NO CAP	
	ME	NO CAP		NO CAP	
	MN	NO CAP		NO CAP	
	NC	NO CAP		NO CAP	
	NH	NO CAP		NO CAP	
	NJ	NO CAP		NO CAP	
	NY	NO CAP		NO CAP	
	OR	NO CAP		NO CAP	
	PA	NO CAP		NO CAP	
	RI	NO CAP		NO CAP	
	TN	NO CAP		NO CAP	
VT	NO CAP		NO CAP		
WA	NO CAP		NO CAP		
WY	NO CAP		NO CAP		
22	WI	\$750,000		NO CAP	
23	FL	\$500,000	*	NO CAP	* can be increased to \$1mm death/vegetative
24	IL	\$500,000	*	NO CAP	*\$1mm Hospitals--currently under review IL supreme court
25	MD	\$650,000	yes	NO CAP	
26-28 Equal Rank	SD	\$500,000		NO CAP	
	ND	\$500,000		NO CAP	
	MS	\$500,000		NO CAP	
29-30 Equal Rank	SC	\$350,000	*	NO CAP	*\$350-\$1,050 depending on number and type of Defendants—caps pierced if gross negligence/willful/fraud/hid records
	GA	\$350,000	*	NO CAP	*\$350-\$1,050 depending on number and type of Defendants
31	MI	\$410,000	* yes	NO CAP	* cap increases to \$733 for paralysis/cognitive incapacity/damage to reproduction
32	UT	\$409,000	yes	NO CAP	
33	AK	\$250,000	*	NO CAP	*400k disfigure/ permanent disability
34	HI	\$375,000	*	NO CAP	*pain & suffering- non economic does not cap other non economic damages

Rank	State	Medical Negligence non-eco			Total Medical Negligence	Important Notes
36	NV	\$350,000	*		NO CAP	*per Defendant no maximum number of Defendants
37	TX	\$250,000	*		NO CAP**	* \$250-750 depending on number and type of defendants **Wrongful death in medical malpractice subject to \$1.8 overall cap (excludes damages for medical care) adjusted for inflation
38	MO	\$350,000			NO CAP	
39	WV	\$250,000		*	NO CAP	*cap increases to \$500k deformity/loss of use of limb/loss of organ or permanent total disability--no cap for un/under insured Ds
40	OK	\$300,000	*	y	NO CAP	*OB/GYN Emergency only--can be broken if jury finds D negligence by clear & convincing or willful by preponderance. Caps under review by the S. Ct. on a certified question.
41	ID	\$293,000		y	NO CAP	
42	MT	\$250,000	*		NO CAP	*cap is illusory--cases routinely settle higher than cap because of fear of constitutional challenge
43	KS	\$250,000			NO CAP	
44	CA	\$250,000			NO CAP	
45	VA	NO CAP			\$1,950,000	
46	NE	NO CAP			\$1,750,000	
47	MA	\$500,000	*		NO CAP	*excludes disability and disfigurement
48	IN	NO CAP			\$1,250,000	
49	CO	\$300,000			\$1,000,000*	*wrongful death capped at \$300k
50	NM	NO CAP			\$600,000*	*excludes future medical care
51	LA	NO CAP			\$500,000*	*excludes future medical care

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Hyman, Black Silver Sage. *Estimating the effect of Damage Caps in Medical Malpractice Cases*

This information is derived from the cited study. The Study is one of the few peer reviewed academic studies based on the patient level impact of caps. It attempts to aggregate the impact of multiple laws influencing the application of caps to actual injured patients.

Average Liability Premium

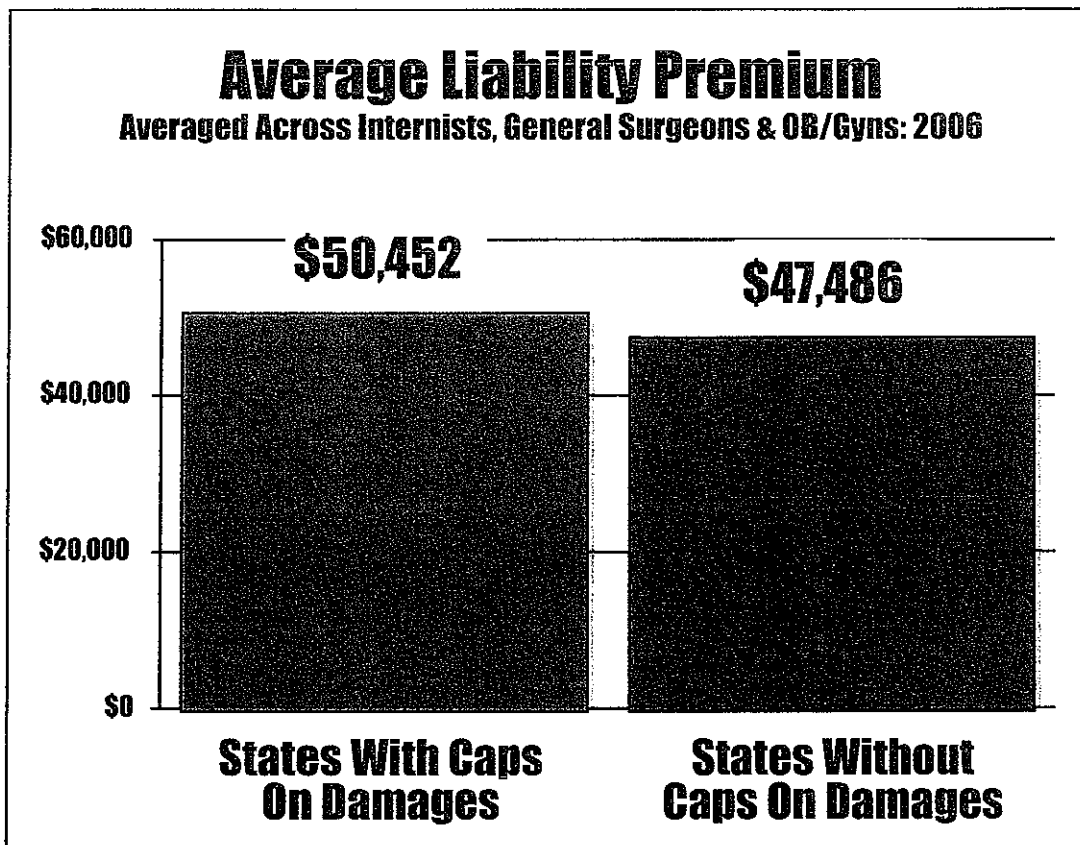
Averaged Across Internists, General Surgeons & OB/Gyns: 2008

Rank	State	Premium
1	Florida	\$113,437
2	District of Columbia	\$81,541
3	Connecticut	\$78,328
4	Illinois	\$72,863
5	New York	\$70,539
6	Pennsylvania	\$67,924
7	Maryland	\$67,867
8	New Jersey	\$64,423
9	Ohio	\$63,712
10	Missouri	\$63,702
11	Nevada	\$62,743
12	Michigan	\$62,518
13	West Virginia	\$62,423
14	Rhode Island	\$59,646
15	Arizona	\$59,497
16	Wyoming	\$58,327
17	Louisiana	\$53,571
18	Montana	\$52,200
19	Massachusetts	\$50,157
20	Texas	\$48,982
21	New Mexico	\$48,843
22	Utah	\$48,464
23	Georgia	\$46,106
24	Delaware	\$45,489
25	Washington State	\$43,456
26	Mississippi	\$43,393
27	Kentucky	\$42,519
28	New Hampshire	\$41,743
29	Virginia	\$41,396
30	California	\$39,066
31	Oklahoma	\$38,810
32	Colorado	\$38,499
33	Indiana	\$37,686
34	Hawaii	\$36,327
35	Tennessee	\$34,790
36	Alaska	\$33,276
37	North Dakota	\$32,426
38	Oregon	\$32,098
39	Kansas	\$31,841
40	South Carolina	\$29,563
41	North Carolina	\$29,400
42	Maine	\$28,335
43	Vermont	\$27,146
44	Alabama	\$26,579
45	Idaho	\$24,881
46	Iowa	\$24,644
47	Arkansas	\$24,502
48	Wisconsin	\$18,151
49	Nebraska	\$14,476
50	Minnesota	\$12,848
51	South Dakota	\$12,479
	US Average	\$45,954

Derived from data provided by [Medical Liability Monitor](#) (Oct 2008) 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.



Caps Do Not Influence Premiums



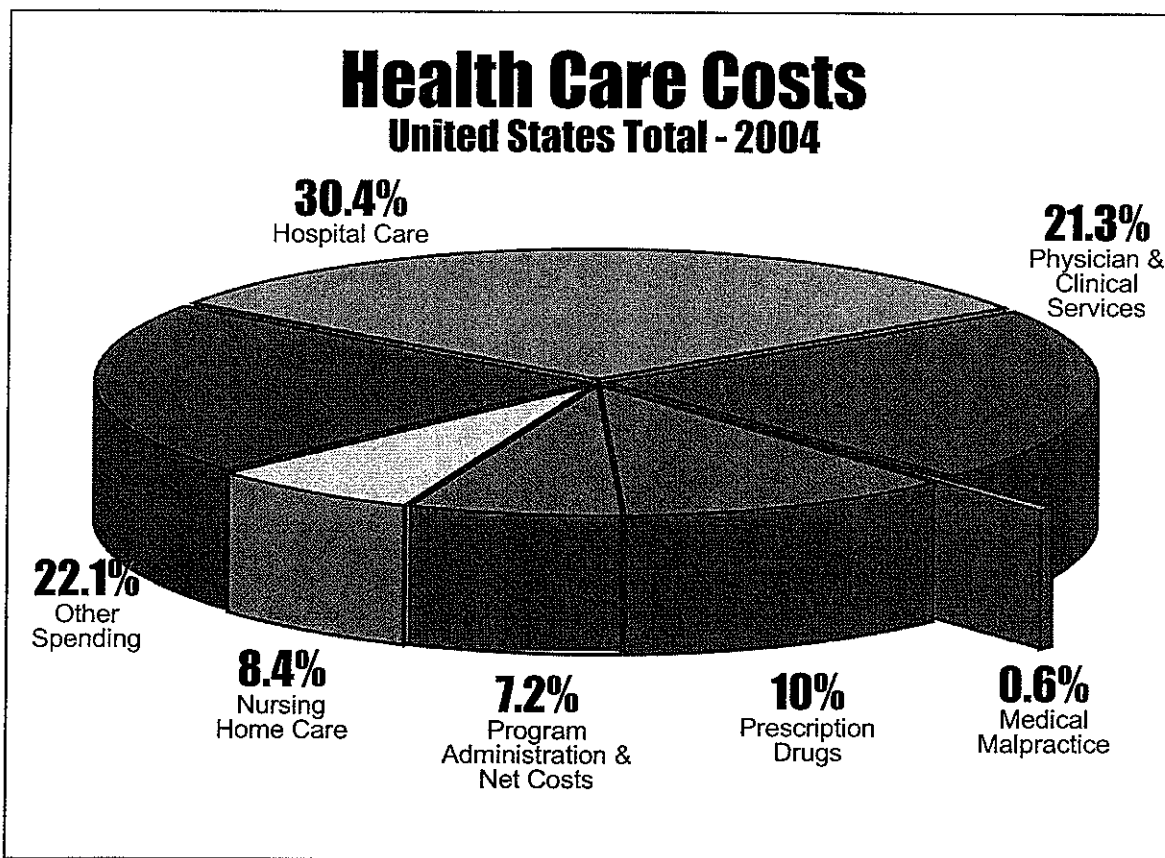
Malpractice Premiums Averaged Across Specialities In States With Caps Are 6.3% Higher Than In States Without Caps.

Derived from data provided by Medical Liability Monitor (Oct 2006) 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. Caps that affect one area of medical malpractice (e.g. just wrongful death cases) or punitive damage caps are not counted since these represent a small number of cases.



Medical Malpractice Insurance

Do Malpractice Premiums Drive Up Medical Costs?



Medical Malpractice Insurance Premiums Amount To Less Than 2/3 Of 1% Of All Medical Costs.

Sources: Personal Health Care Expenditures taken from the Centers of Medicare and Medicaid Services and is \$1.88 Trillion (<http://www.cms.hhs.gov/NationalHealthExpendData/downloads/tables.pdf> - table 2, percentages calculated). Total spent on medical malpractice insurance reflects US total medical malpractice premiums written according to AM Best State Line Report A2 for 2004 (the insurance industry's leading provider of information and company ratings) and comes to \$11.4 Billion. As a percentage, this comes to 0.6%. Other percentages from the Centers for Medicare and Medicaid Services with the .6 from Medical Malpractice subtracted out from "other spending."



denver and the west

Doctor-less Wellington looks for life support

By Monte Whaley
The Denver Post

Posted: 01/25/2009 12:30:00 AM MST



Nurse practitioner Jan Beltz examines Ken Romero at Wellington Medical Center, which is closing later this month because of too few patients in the town of more than 5,000. A Fort Collins doctor hopes to reopen the clinic. (Hyoung Chang, The Denver Post)

WELLINGTON — This small bedroom community in north Larimer County has a dog groomer,

veterinarian, dentist and a gourmet chocolate shop.

But since Jan. 16, it has had no physician.

Dr. Andrew Hughes left when Cheyenne Regional Medical Center announced that it would close Wellington Medical Center at the end of the month.

Hospital officials said they had to leave Wellington — a town of more than 5,000 — because the patient load was too light while the costs of running the 3-year-old facility were too high. At its zenith, the clinic was seeing about 25 people a day.

"Our day-to-day volume was a little low, and with the economic downturn, we felt we didn't have much of a choice," said hospital spokeswoman Kathy Baker.

Rural Colorado has long suffered through a doctor drought. There are six counties in Colorado with only a part-time primary-care physician, and Crowley County is without a doctor.

Most young doctors avoid primary care in rural areas because of overwork, lack of resources, and low reimbursements from medical insurers, said Lou Ann Wilroy, executive director of the Colorado Rural Health Center.

"It's not a recipe for success," Wilroy said.

A Fort Collins doctor — Dr. John Bender of

Miramont Family Medicine — hopes to take over the Wellington clinic on Feb. 2 with an experienced staff that would serve patients. Bender is aiming to have a primary-care physician at the clinic by July.

Many residents were stunned by the announced closure. They assumed the residents moving into homes springing up in and around the town could support a full-time doctor.

"We always thought as this community grows, we could finally get a clinic like this," Ken Romero said. "I was heartbroken when I heard about this."

Fort Collins is only about 15 miles to the south of Wellington. But for Romero, having to take his children to a doctor there would be a big inconvenience. He would have to take them out of school for much of the day and he would miss work to drive them to their appointment.

"This was really nice," said Romero, who was the last patient to see the clinic's outgoing family nurse practitioner, Jan Beltz.

Beltz is leaving to work in a specialty practice that will be closer to her home in Milliken. "I'm going to miss this place and these people," said Beltz, who has been a nurse for more than 30 years. "These people really embraced this clinic and they deserve a place like this."

Wellington suffers from the same afflictions as an isolated rural area — low patient traffic — while still being considered a growing suburb of

Fort Collins, Bender said.

"When even bedroom communities cannot afford decent health care, that's not a good sign for the whole economy," he said.

Bender wants to expand the clinic, adding more hours as well as an in-house lab and an electronic records system.

The Wellington clinic now serves about 2,900 patients. Bender hopes to eventually increase that to about 4,000 by bringing in specialists and other services from his clinic in Fort Collins.

"We're hoping to get the resources and tools to truly serve the town and the area around it, well," Bender said.

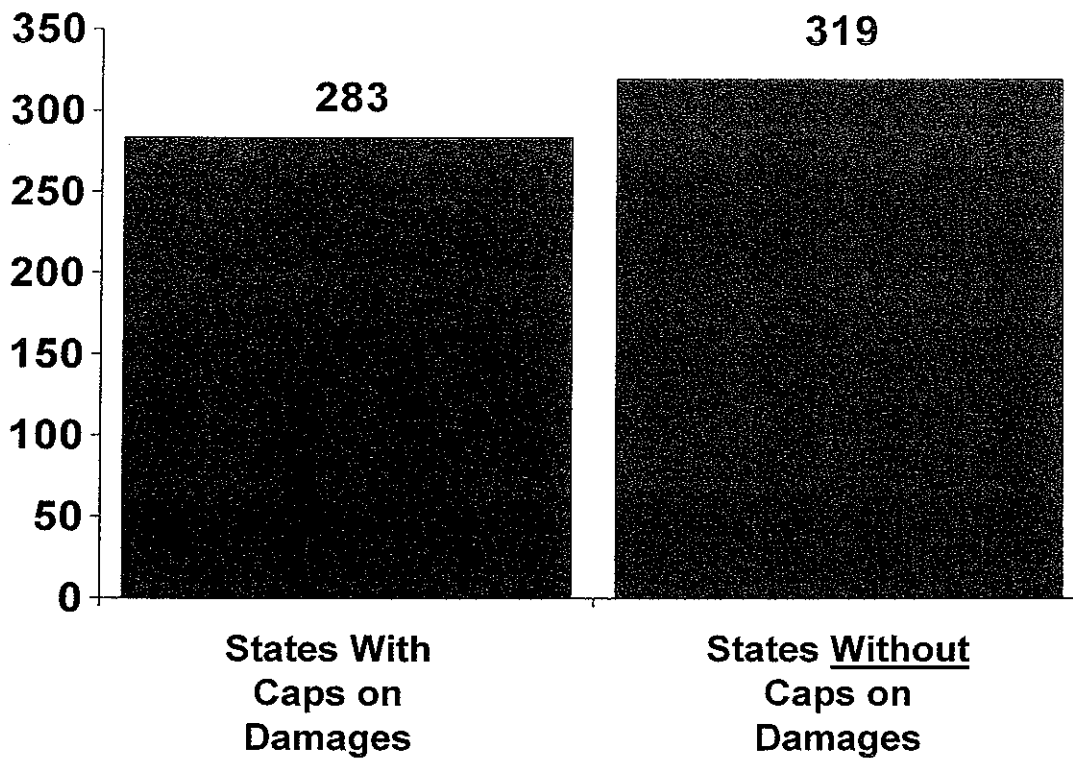
Most patients, when they heard Bender would resuscitate the clinic, decided to keep getting medical care there, said Jessica Jaques, the clinic's patient-account representative. Jaques also will stay on.

"We all want to be true to Wellington," she said.

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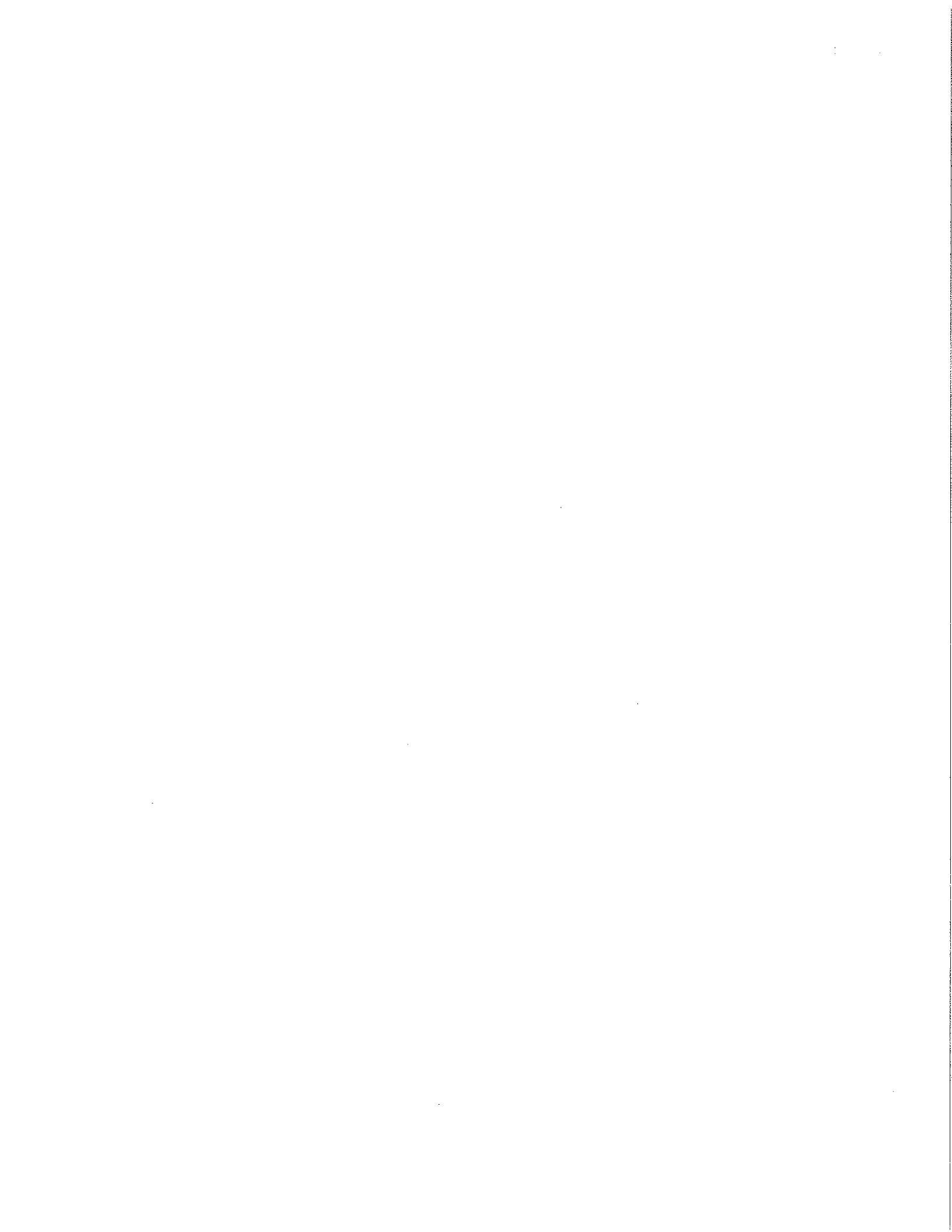
Are Doctors Really Closing Their Doors?

Number of Physicians Per 100,000 Population: 2007

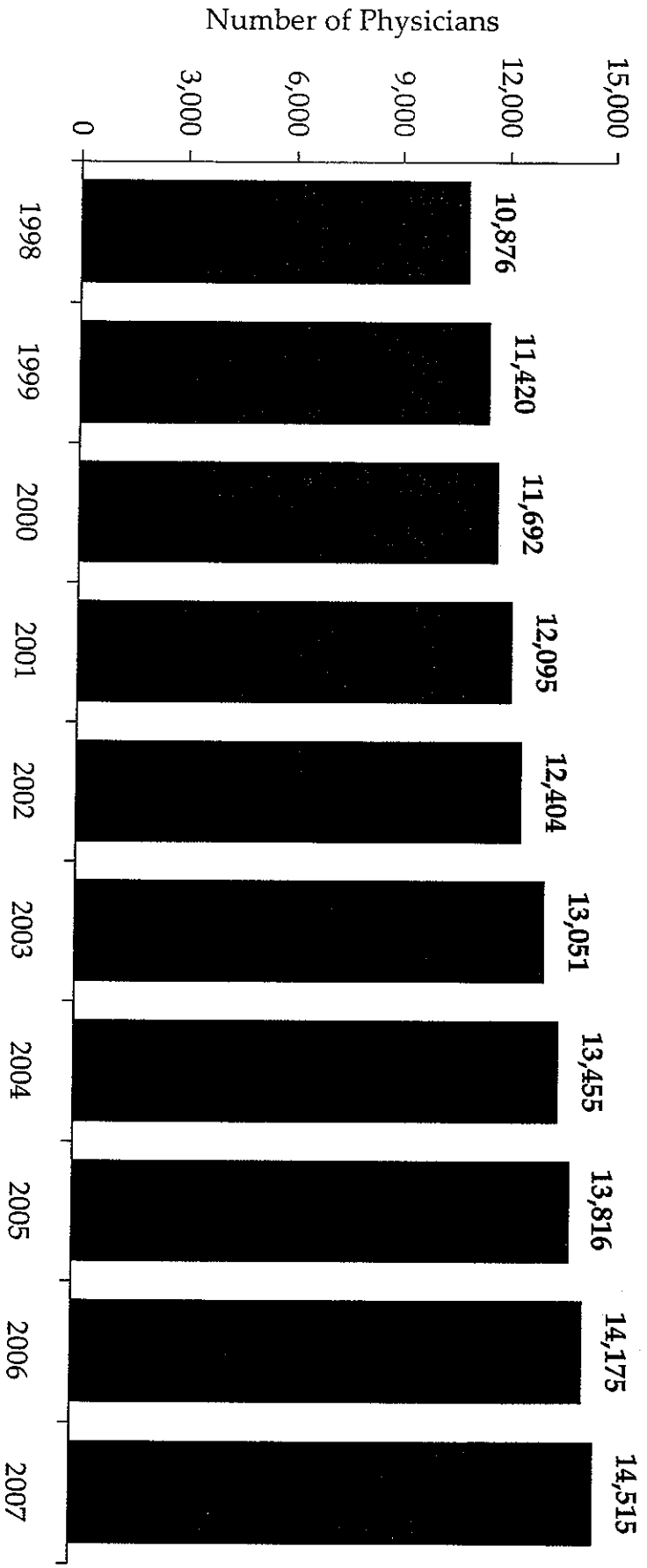


In 2007, there were 13% more physicians per 100,000 population in states without caps than there were in states with caps.

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. Caps that affect one area of medical malpractice (e.g. just wrongful death cases) or punitive damage caps are not counted since these represent a small number of cases. Physician numbers from "Physician Characteristics and Distribution 2009, American Medical Association.



Number of Physicians in Colorado: 1998 to 2007



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

