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Caps on Medical Liability Damages Reduce Medical Liability Premiums and Increase Access to Care

WHEN CAPS ARE INSTITUTED, PREMIUM COSTS GO DOWN

- A 2006 study examining medical liability premiums between 1991 and 2004 found that, on average, OB-GYN premiums in states with non-economic caps were 25.5 percent lower than in states without caps; premiums for internal medicine were 17.3 percent smaller in capped than non-capped states. (Kilgore, Meredith L., Michael A. Morrissey, Leonard J. Nelson, "Tort law and medical malpractice insurance premiums," *Inquiry* 43, Fall 2006: 255-270)
- In the five years leading up to the enactment of Colorado's Health Care Availability Act (HCAA) in 1988, medical liability premiums in the state increased by between 20 and 73 percent annually. After the HCAA, from 1989 to 2000, net premium increases were less than 1 percent annually. Two Colorado Supreme Court decisions in 2001 and 2002 undermined tort reforms and premiums increased again, but after subsequent legislation restored predictability, rate stability returned; COPIC's premiums in 2007 and 2008 were unchanged from 2006, and 2009 premiums decreased by 3 percent.
- In 2005, Illinois instituted caps on non-economic damages. Since then, carriers in the state have reduced premiums between 5-32 percent.
- Ohio instituted a non-economic damage cap, among other reforms, in 2005. After years of annual medical liability premium increases averaging more than 20 percent, rates went down by as much as 13 percent after the cap was instituted.

BY REDUCING PHYSICIANS' COSTS, CAPS IMPROVE ACCESS TO CARE

- A 2007 study found that the number of physicians per capita in the most rural counties nationwide is about 4 percent larger when a state has caps than in similar counties in states without caps; the discrepancy is even larger (10-11 percent) for surgical specialties. (Matsa, David A., "Does malpractice liability keep the doctor away? Evidence from tort reform damage caps," *Journal of Legal Studies* 36, June 2007)
- A 2005 study found that overall physician supply (not simply rural) in states with non-economic damage caps was 2.2 percent greater than in states without caps. (Encinosa, William E., Fred J Hellinger, "Have state caps on malpractice awards increased the supply of physicians," *Health Affairs*, May 31, 2005)
- A 2006 study of Colorado OB-GYNs and family physicians found that a \$20,000 increase in the cost of liability coverage (approximately the anticipated jump under this bill, when both premium increases and the need for higher coverage limits are combined) would lead to a nearly 40 percent drop in the number of physicians delivering babies.
- In 2003, Texas legislators established a hard cap of \$250,000 on non-economic damages and voters passed Prop. 12, ensuring that legislators retained the right to pass such reforms. Since that time, 3,000 physicians who had previously left Texas have returned and the state has licensed unprecedented numbers of new physicians: 3,324 new physician licenses were issued in the state in 2007, up by nearly 25 percent from the previous year.
- In 2003, 45 percent of hospitals nationwide reported that the professional liability crisis resulted in the loss of physicians or reduced coverage in emergency departments. (American Hospital Assn. Professional Liability Survey, 2003)
- Between 1997 and 2007, Pennsylvania lost 11 maternity wards; liability concerns were a primary reason for the closures. (Stacey Burling, "Demise of maternity wards is inducing the baby scramble," *Philadelphia Inquirer*, May 6, 2007)