



Highlights of [GAO-03-836](#), a report to congressional requesters

Why GAO Did This Study

The recent rising cost of medical malpractice insurance premiums in many states has reportedly influenced some physicians to move or close practices, reduce high-risk services, or alter their practices to preclude potential lawsuits (known as defensive medicine practices). States have revised tort laws under which malpractice lawsuits are litigated to help constrain malpractice premium and claims costs. Some of these tort reform laws include caps on monetary penalties for noneconomic harm, such as for plaintiffs' pain and suffering. Congress is considering legislation similar to some states' tort reform laws.

GAO examined how health care provider responses to rising malpractice premiums have affected access to health care, whether physicians practice defensive medicine, and how growth in malpractice premiums and claims payments compares across states with varying tort reform laws. Because national data on providers' responses to rising premiums are not reliable, GAO examined the experiences in five states with reported malpractice-related problems (Florida, Nevada, Pennsylvania, Mississippi, and West Virginia) and four states without reported problems (California, Colorado, Minnesota, and Montana) and analyzed growth in malpractice premiums and claims payments across all states and the District of Columbia.

www.gao.gov/cgi-bin/getrpt?GAO-03-836.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Kathryn G. Allen at (202) 512-7118.

MEDICAL MALPRACTICE

Implications of Rising Premiums on Access to Health Care

What GAO Found

Actions taken by health care providers in response to rising malpractice premiums have contributed to localized health care access problems in the five states reviewed with reported problems. GAO confirmed instances in the five states of reduced access to hospital-based services affecting emergency surgery and newborn deliveries in scattered, often rural, areas where providers identified other long-standing factors that also affect the availability of services. Instances were not identified in the four states without reported problems. In the five states with reported problems, however, GAO also determined that many of the reported provider actions were not substantiated or did not affect access to health care on a widespread basis. For example, although some physicians reported reducing certain services they consider to be high risk in terms of potential litigation, such as spinal surgeries and mammograms, GAO did not find access to these services widely affected, based on a review of Medicare data and contacts with providers that have reportedly been affected. Continuing to monitor the effect of providers' responses to rising malpractice premiums on access to care will be essential, given the import and evolving nature of this issue.

Physicians reportedly practice defensive medicine in certain clinical situations, thereby contributing to health care costs; however, the overall prevalence and costs of such practices have not been reliably measured. Studies designed to measure physicians' defensive medicine practices examined physician behavior in specific clinical situations, such as treating elderly Medicare patients with certain heart conditions. Given their limited scope, the study results cannot be generalized to estimate the extent and cost of defensive medicine practices across the health care system.

Limited available data indicate that growth in malpractice premiums and claims payments has been slower in states that enacted tort reform laws that include certain caps on noneconomic damages. For example, between 2001 and 2002, average premiums for three physician specialties—general surgery, internal medicine, and obstetrics/gynecology—grew by about 10 percent in states with caps on noneconomic damages of \$250,000, compared to about 29 percent in states with limited reforms. GAO could not determine the extent to which differences in premiums and claims payments across states were caused by tort reform laws or other factors that influence such differences.

In commenting on a draft of this report, three independent reviewers with expertise on malpractice-related issues generally concurred with the report findings, while the American Medical Association (AMA) commented that the scope of work was not sufficient to support the finding that rising malpractice premiums have not contributed to widespread health care access problems. While GAO disagrees with AMA's point of view, the report was revised to better clarify the methods and scope of work for this issue.