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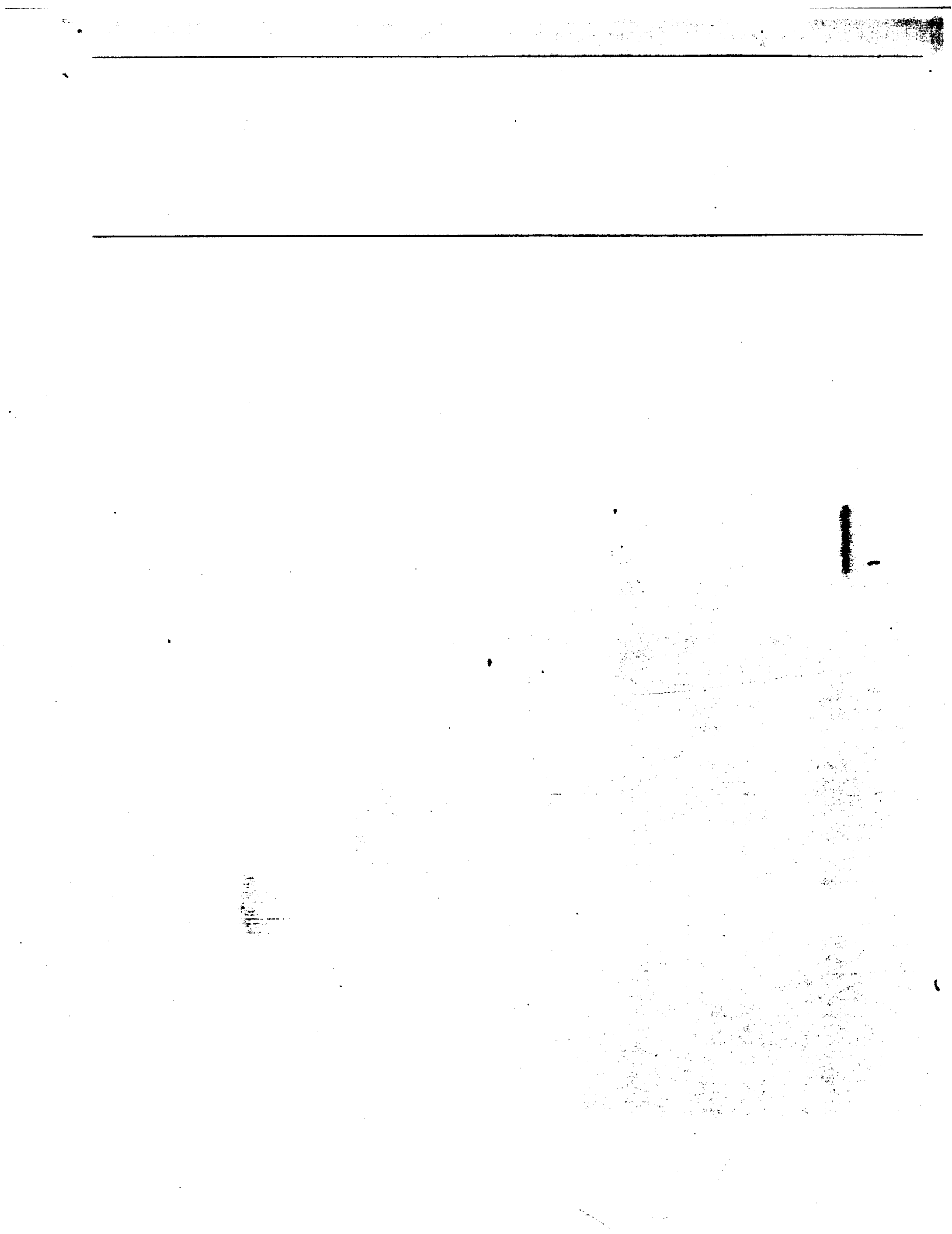
Report to Congressional Requesters

December 1986

MEDICAL MALPRACTICE

Case Study on Arkansas

GAO/HRD-87-21S-1



Preface

December 31, 1986

Representative John Edward Porter and Senator John Heinz, Chairman, Senate Special Committee on Aging, asked GAO to identify the actions taken by the states to address medical malpractice insurance problems and to determine changes in insurance costs, the number of claims filed, and the average amount paid per claim. These case studies discuss the situation in each state.

This study on Arkansas focuses on the views of various interest groups on perceived problems, actions taken by the state to deal with the problems, the results of these actions, and the need for federal involvement. A summary of the findings for all six case studies can be found in our overall report, Medical Malpractice: Six State Case Studies Show Claims and Insurance Costs Still Rise Despite Reforms (GAO/HRD-87-21, December 31, 1986).

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Overview

Although medical malpractice insurance rates have increased since 1980, the cost of malpractice insurance for physicians and hospitals in Arkansas was not viewed as a major current problem by the six interest groups we surveyed. Major problems were expected to develop in the future, however, regarding the cost of malpractice insurance, the availability of such insurance, legal expenses/attorney's fees for malpractice claims, and physician actions to reduce or prevent malpractice claims. Although the state enacted some tort reforms to address medical malpractice problems, the interest groups we surveyed believed the reforms have not had much effect. There was little support for federal involvement in the medical malpractice situation in Arkansas. Most groups believe that problems should be addressed at the state rather than the federal level.

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Arkansas: Few Current Concerns but Future Problems Expected

Background

Population, Physician, and Hospital Characteristics

With a population of 2.3 million, Arkansas is the 33rd most populous state. The population is almost equally divided between urban and rural areas.[1] Arkansas had 3,532 physicians as of December 31, 1985,[2] and 92 nonfederal community hospitals with a total of 11,394 beds in 1984.[3] A total of 3,017 physicians were providing patient care—2,504 were office-based and 513 were hospital-based. Table 1 shows the distribution of patient care physicians among 13 selected specialties.

Table 1: Number of Nonfederal Patient Care Physicians in Arkansas in Selected Specialties as of December 31, 1985

		Hospital-based practice		
	Office-based practice	Residents	Full-time physician staff	Total
General practice	774	80	11	**865**
Internal medicine	244	72	7	**323**
Pediatrics	115	42	3	**160**
Psychiatry	78	13	21	**112**
Pathology	60	9	7	**76**
Radiology	73	1	5	**79**
Ophthalmology	102	15	1	**118**
General surgery	185	35	7	**227**
Anesthesiology	94	28	2	**124**
Plastic surgery	12	0	0	**12**
Orthopedic surgery	103	19	4	**126**
Obstetrics/gynecology	159	16	3	**178**
Neurosurgery	19	8	2	**29**

The occupancy rate of the state's community hospitals averaged 62 percent in 1984. About 42 percent of the hospitals were nongovernment, not-for-profit; 41 percent were state and locally owned; and 17 percent were investor-owned. The most common hospital size was 50 to 99 beds. The 31 hospitals of that size accounted for 20 percent of the hospital beds in the state. Arkansas has three hospitals with 500 or more beds each, which accounted for 17 percent of the beds.

[1]Population and ranking are as of July 1, 1984 (preliminary), and the urban/rural mix is as of April 1, 1980, from Statistical Abstract of the United States, 1986, 106th Edition, pp. 10 and 12.

[2]Physician Characteristics and Distribution in the U.S., 1986 Edition, Department of Data Release Services, Division of Survey and Data Resources, American Medical Association (forthcoming).

[3]Hospital Statistics, 1985 Edition, American Hospital Association, p. 48.

Regulation of Insurance Rates and Description of Medical Malpractice Insurers

Before 1979, Arkansas was a "prior approval state." Insurers were required to file proposed rates and obtain the approval of the state insurance department before the rates could be used, according to an Arkansas Insurance Department official. Since 1979, Arkansas has been a "file and use" state. Each insurer must now file rates with the state insurance department before the effective date; however, prior approval is not required before the effective date. Although the state insurance department can reject rate increases because of "excessiveness," Arkansas Insurance Department officials told us that they cannot recall ever having rejected a rate increase. They stated it is difficult to show that the rates are excessive in a file and use state.

In 1986, the two largest medical malpractice insurers of physicians in Arkansas were the St. Paul Fire and Marine Insurance Company (St. Paul Company) and the American Physicians Insurance Exchange. The St. Paul Company insures about 70 percent of the physician market. According to Arkansas Medical Society and St. Paul Company officials, the American Physicians Insurance Exchange insures most of the remaining physicians.

According to Arkansas Hospital Association officials, the St. Paul Company and the Ohio Hospital Insurance Company are the leading hospital insurers in the state. In January 1985, the St. Paul Company insured 58 Arkansas hospitals, and the Ohio Hospital Insurance Company insured 7.

In 1984, the predominately written malpractice coverage limits for Arkansas physicians were $1 million/$1 million. For hospital malpractice policies, the predominately written coverage limits were $300,000/$900,000 for policies written by the St. Paul Company and $200,000/$600,000 for policies written by the Ohio Hospital Insurance Company. For both hospitals and physicians, there is only one rating territory in the state.

Medical Malpractice Situation in the Mid-1970's

According to an Arkansas Medical Society official, the availability of malpractice insurance was the major concern in Arkansas when Aetna, one of the two major insurers in the state, withdrew from the malpractice insurance market in 1975. The St. Paul Company was left as essentially the state's only malpractice insurer.

In late 1978, the American Physicians Insurance Exchange began writing malpractice insurance for physicians in the state, according to a

company official. An Arkansas Medical Society official stated that the effect of this company's entry into Arkansas was immediate as many physicians changed their insurance to this company in the initial years because of its lower rates. The official added that the St. Paul Company lowered its rates shortly thereafter in order to remain competitive. The same official noted that in 1983 the Medical Protective Company entered the Arkansas physician market.

Response to Problems

The General Assembly of Arkansas created the Professional Liability Reinsurance Exchange in 1975 to assure an available market for medical malpractice insurance. The exchange consisted of all insurers writing general liability insurance in the state. Each was required to issue malpractice insurance policies in proportion to their general liability market share. The exchange was never used and was allowed to expire on March 31, 1981, because malpractice insurance had become readily available from the normal insurance market, according to Arkansas Insurance Department officials.

In 1975, a Professional Malpractice Insurance Commission was established. The Commission was to hear and rule upon any claim submitted to it which involved medical injury, death or monetary loss as a result of medical malpractice. However, similar to the Insurance Exchange, the Commission's authority was allowed to expire in 1979. According to an Arkansas Medical Society official, physicians believed the Commission did not deter frivolous claims because claims could still be taken to court, after the panel found no cause for negligence or damages.

In 1979, the General Assembly of Arkansas enacted the following tort reforms related to medical malpractice:

- Burden of proof. In any action for medical injury, the plaintiff has the burden of proving that the medical standards of his locality were not met by the provider. Also, when the medical provider failed to supply adequate information to obtain the informed consent of the injured person, the plaintiff has the burden of proving that the treatment was performed in other than an emergency situation and that the medical provider did not supply the type of information that would customarily have been given a patient by other medical providers with similar training and experience in the locality in which the medical provider practices.
- Qualifications for expert testimony. In any action for medical injury, no medical care provider should be required to give expert testimony

against himself at a trial, and no expert witness is permitted to give testimony if his compensation depends on the outcome of the case.

- Statute of limitations. All actions involving medical injury shall be commenced within 2 years from the date the cause of the injury occurs, with the exception of the subsequent discovery of a foreign object, in which case, the action shall be commenced within 1 year from date of discovery or the date the foreign object should reasonably have been discovered. With regard to minors, legal action must be commenced before the 19th birthday, provided that the injury occurred when the individual was under the age of 18. Any person who had been adjudicated incompetent at the time of the injury has 1 year after the disability is removed to commence an action.
- Notice of intent to sue. No legal action may be started until at least 60 days after the medical provider is given written notice of alleged injuries and the damages claimed.
- Elimination of ad damnum. In any action for medical injury, the pleading shall not specify the amount of damages claimed but instead that the damages are within the minimum or maximum of that particular court.
- Damages recoverable. In any verdict for the plaintiff, damages may be awarded for both economic losses and pain and suffering and other noneconomic loss; however, the award must separately state the amounts for both. Also, the court, at the request of either party, may order that awards for future damages exceeding $100,000 be paid in periodic payments rather than a lump sum.
- Baseless pleadings. If any action for medical injury is intentionally made without reasonable cause and found to be untrue, the plaintiff shall pay the reasonable costs incurred by the defendant.

Effect of Arkansas Tort Reforms

None of the interest groups we surveyed believed that the tort reforms enacted by the state have had any major effect.

Key Indicators of the Situation Since 1980

Malpractice insurance premiums for physicians and hospitals have increased moderately during recent years. For example, the selected physician specialties experienced a median rate of increase of 80 percent from 1980 to 1986. Hospital rates increased by 51 percent during the same period. The frequency of claims per 100 physicians increased from 6.6 in 1980 to 8.4 in 1981 and then remained relatively stable from

1981 to 1984. The average paid claim for physicians increased substantially between 1980 and 1984—from $31,619 to $51,685. The frequency of claims against hospitals was 1.2 claims per 100 occupied beds in both 1980 and 1984, but the average paid claim increased from $12,000 to $18,345. The insurers' average cost to investigate and defend claims also increased substantially for both physician and hospital insurers.

Physicians

Cost of Malpractice Insurance

As of January 1986, there was a wide variation in malpractice insurance rates among different physician specialties in Arkansas. For example, the St. Paul Company's annual premium for $1 million/$1 million claims-made[4] coverage ranged from $1,323 for general practice (no surgery) and internal medicine (no surgery), pediatrics (no surgery), psychiatry, and pathology to $12,612 for neurosurgery. Table 2 shows the variation in premiums among the selected specialties.

As also shown in table 2, the rate of increase in the medical malpractice premiums has not been uniform among physician specialties. High-risk specialties, such as neurosurgery and obstetrics/gynecology, have experienced the highest percentage increases. Since 1980, neurosurgery and obstetrics/gynecology have experienced 136 percent and 147 percent increases, respectively, while the other selected specialties experienced increases ranging from 22 to 88 percent. The median increase was 80 percent between 1980 and 1986.

[4]A claims-made policy covers malpractice events that occur after the effective date of the coverage and for which claims are made during the policy period.

Table 2: Cost of Insurance[a] for Selected Specialties, 1980 and 1986

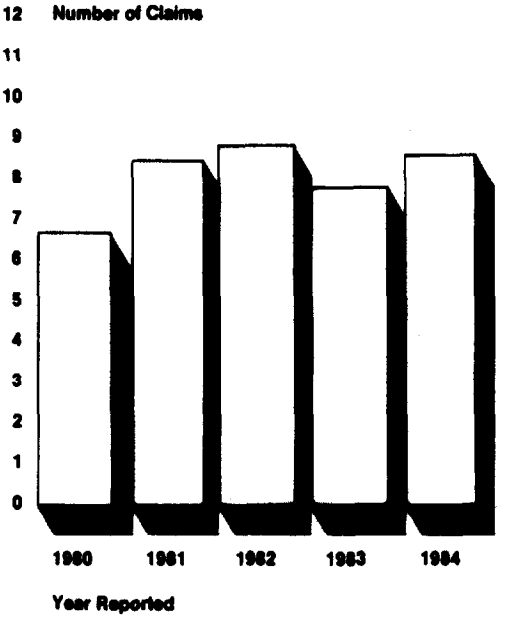
Speciality	1980	1986	Percent increase 1980-86
Ophthalmology/surgery	$2,050	$2,494	22
Orthopedic surgery	5,337		7,985
General practice (minor surgery)	1,204	1,907	58
Internal medicine (minor surgery)	1,204	1,907	58
Radiology	1,204	1,907	58
Pediatrics (minor surgery)	1,204	1,907	58
Anesthesiology	3,366	5,407	61
Plastic surgery	3,366	6,063	80
General surgery	3,366	6,063	80
Internal medicine (no surgery)	704	1,323	88
Psychiatry	704	1,323	88
Pathology	704	1,323	88
General practice (no surgery)	704	1,323	88
Pediatrics (no surgery)	704	1,323	88
Neurosurgery	5,337	12,612	136
Obstetrics/gynecology	4,023	9,940	147

[a]Rates shown are those of the St. Paul Company for a $1 million/$1 million claims-made policy as of January 1 each year.

Frequency of Claims

The combined claims experience for the St. Paul Company and the American Physicians Insurance Exchange indicated that the frequency of claims per 100 physicians in Arkansas increased from 6.6 claims in 1980 to 8.6 claims in 1984—30 percent—but as shown in figure 1, the frequency of claims was relatively constant between 1981 and 1984.

Figure 1: Frequency of Claims per 100 Physicians, 1980-84



As shown in table 3, in 1984 the frequency of claims per 100 physicians for 13 selected specialties ranged from zero for radiologists and psychiatrists to 59 for plastic surgeons. The percentage change from 1980 to 1984 varied from specialty to specialty. The most dramatic increase in claims frequency was the 446-percent increase for plastic surgeons—from 10.8 claims in 1980 to 59 claims in 1984.

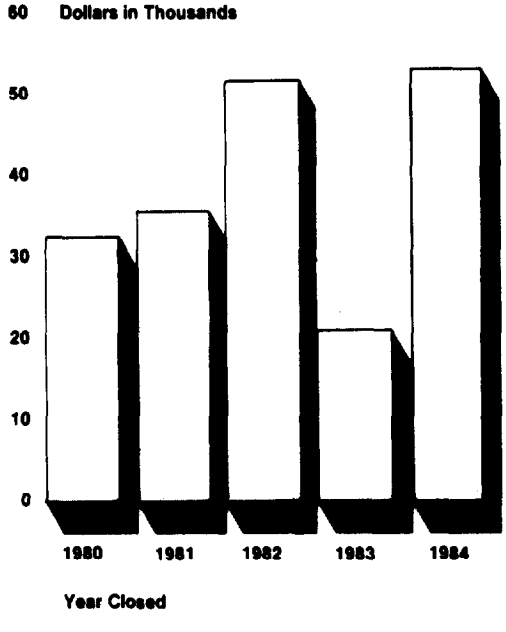
Table 3: Frequency of Claims per 100 Physicians for Selected Specialties, 1980-84

Speciality	1980	1981	1982	1983	1984	Percent increase 1980-84
General practice	7.1	4.3	3.4	5.4	4.2	(41)
Internal medicine	3.6	4.5	2.4	6.0	0.7	(81)
Pediatrics	2.8	7.2	1.1	2.0	2.0	(29)
General surgery	12.9	17.4	23.2	17.3	19.0	47
Neurosurgery	15.6	6.4	39.7	6.6	12.3	(21)
Ophthalmology/surgery	2.7	4.9	5.0	1.3	5.1	89
Orthopedic surgery	12.8	18.0	32.6	14.1	22.2	73
Plastic surgery	10.8	44.4	25.8	20.0	59.0	446
Obstetrics/ gynecology	20.3	30.4	28.1	24.5	28.4	40
Radiology	0	0	13.8	0	0	0
Psychiatry	4.7	3.6	9.3	1.4	0	(100)
Anesthesiology	8.1	1.7	2.3	9.2	11.7	44
Pathology	5.0	3.6	1.7	1.8	13.4	— 168

Size of Awards/Settlements

As shown in figure 2, the average paid claim for physicians in Arkansas increased 63 percent between 1980 and 1984—from $31,619 in 1980 to $51,685 in 1984.

Figure 2: Average Paid Claim for Physicians, 1980-84



As shown in table 4, no clear trend is evident in the average paid claim for the selected specialties. Because the number of physicians in any one specialty is relatively small, the base for spreading total claims paid is small. As a result, a few large claims paid in a given year for a given specialty could have a significant effect on the average paid claim for that specialty that year.

Table 4: Average Paid Claim for Selected Specialties, 1980 and 1984

	1980	1984
All physicians	$31,619	$51,685
Specialty:		
General practice	0	7,500
Internal medicine	0	30,250
Pediatrics	35,000	0
General surgery	102,000	35,000
Neurosurgery	0	20,000
Ophthalmology/surgery	0	0
Orthopedic surgery	0	120,600
Plastic surgery	0	0
Obstetrics/gynecology	0	81,370
Radiology	0	0
Psychiatry	0	0
Anesthesiology	0	17,500
Pathology	0	19,000

Cost to Investigate and Defend Claims

The average cost to investigate and defend claims against Arkansas physicians insured by the St. Paul Company and the American Physicians Insurance Exchange increased from $2,714 in 1980 to $5,269 in 1984—a 94-percent increase.

The percentage of claims closed with costs only to investigate and defend the claim remained fairly constant during the period 1980-84. However, the portion of claims closed with an indemnity paid increased from 18 percent in 1980 to 32 percent in 1984. Over this period, the percentage of claims closed with no expense decreased from 41 to 28.

Hospitals

Cost of Malpractice Insurance

As shown in table 5, the total estimated malpractice insurance costs for hospitals in Arkansas[5] increased from $1.8 million in 1983 to $2.2 million in 1985—22 percent.

Table 5: Estimated Hospital Malpractice Insurance Costs by Type of Expenditure, 1983-85

Dollars in millions

Expenditure	1983	1984	1985	1983-85 increase[a] Amount	Percent
Total	**$1.8**	**$1.8**	**$2.2**	**$0.4**	**22**
Contributions to self-insurance trust funds	.5	.4	.7	.2	40
Premiums for purchased insurance	1.3	1.4	1.5	.2	15
Uninsured losses	.0	.0	.0	.0	0

[a]Sampling errors for the amount and percentage of increase are not presented in appendix IV, but they are comparable to the errors for the estimated costs.

Note: Detail may not add to total due to independent estimation.

As shown in table 6, 65 percent of the hospitals had total annual malpractice insurance costs of less than $25,000 in 1985. No Arkansas hospital had annual insurance costs greater than $500,000 in 1983 or 1985.

Table 6: Estimated Distribution of Annual Malpractice Insurance Costs for Hospitals, 1983 and 1985

	1983			1985		
Annual costs	**Number**	**Percent**	**Cum. Percent**	**Number**	**Percent**	**Cum. Percent**
Less than $10,000	16	35.6	35.6	13	26.1	26.1
$10,000 to $24,999	13	30.4	66.0	20	38.5	64.6
$25,000 to $49,999	7	16.1	82.1	8	16.1	80.7
$50,000 to $99,999	3	6.0	88.1	3	5.7	86.4
$100,000 to $249,999	3	7.4	95.5	6	11.6	98.0
$250,000 to $499,999	2	4.5	100.0	1	2.0	100.0
$500,000 to $999,999	0	0.0	•	0	0.0	•
$1 million or more	0	0.0	•	0	0.0	•
Total	**44**	**100.0**		**51**	**100.0**	

Note: The total number of hospitals each year is based on the number of responding hospitals that provided the relevant data for that year.

[5]See appendix III of this report for information on the number of Arkansas hospitals in the universe, our sample, and the survey response. Unless otherwise indicated, the estimates presented in this study are also included with sampling errors in tables IV.1 through IV.5. Also, see GAO/HRD-87-21, p. 11, app. II, for methodology for obtaining and analyzing hospital cost data.

As shown in table 7, from 1983 to 1985 the estimated average malpractice insurance cost per inpatient day increased 38 percent, while the annual malpractice cost per bed increased 34 percent.

Table 7: Estimated Average Hospital Malpractice Insurance Costs per Inpatient Day and per Bed,[a] 1983-85

				1983-85 increase[b]	
	1983	1984	1985	Amount	Percent
Average malpractice cost per inpatient day	$1.09	$1.24	$1.50	$.41	38
Average annual malpractice cost per bed	$353	$418	$474	$121	34

[a]To determine the average annual malpractice cost per bed, we computed the daily occupied bed rate (the total number of inpatient days divided by 365) and increased that number by one bed for every 2,000 outpatient visits (emergency room visits were counted as outpatient visits). This number was divided into the hospital's total annual malpractice insurance cost.

[b]Sampling errors for the amount and percentage of increase are not presented in appendix IV, but they are comparable to the errors for the estimated costs.

Our estimates indicate that the changes in inpatient day insurance costs varied considerably among the hospitals in the state. As shown in table 8, from 1983 to 1985, 30 percent of the hospitals had increases of less than 10 percent or decreases in inpatient day malpractice insurance costs, 35 percent had increases of 10 to 49 percent, and 35 percent had increases of 50 percent or more.

Table 8: Estimated Distribution of Changes in Malpractice Insurance Costs per Inpatient Day From 1983 to 1985

	Hospitals		
Percentage change	Number	Percent	Cum. Percent
Increases of less than 10 or all decreases	13	30.3	30.3
+10 to 49	15	35.1	65.4
+50 to 99	11	25.5	90.9
+100 to 199	4	9.2	100.1[a]
+200 to 299	0	0	•
+300 or more	0	0	•
Total	**43[a]**	**100.1[a]**	

[a]Does not add to adjusted universe or 100 percent due to independent rounding.

Note: The total number of hospitals is based on the number of responding hospitals that provided data for both 1983 and 1985 so that the percentage change could be calculated.

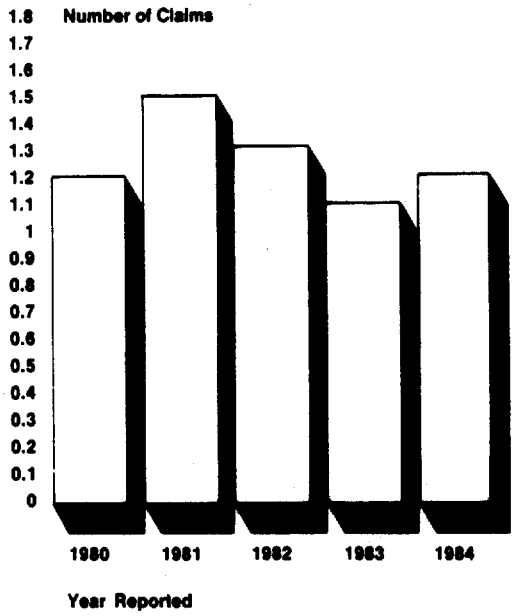
Malpractice Insurance Rates for Hospitals

For $300,000/$900,000 claims-made coverage, the St. Paul Company's hospital malpractice insurance rates increased from $173 per occupied bed in 1980 to $262 in 1986—51 percent.

Frequency of Claims

Based on the combined claims experience shown in figure 3 for the two largest insurers of Arkansas hospitals—the St. Paul Company and the Ohio Hospital Insurance Company—except for 1981, the frequency of claims filed against Arkansas hospitals remained relatively constant around 1.2 claims per 100 occupied beds from 1980 to 1984.

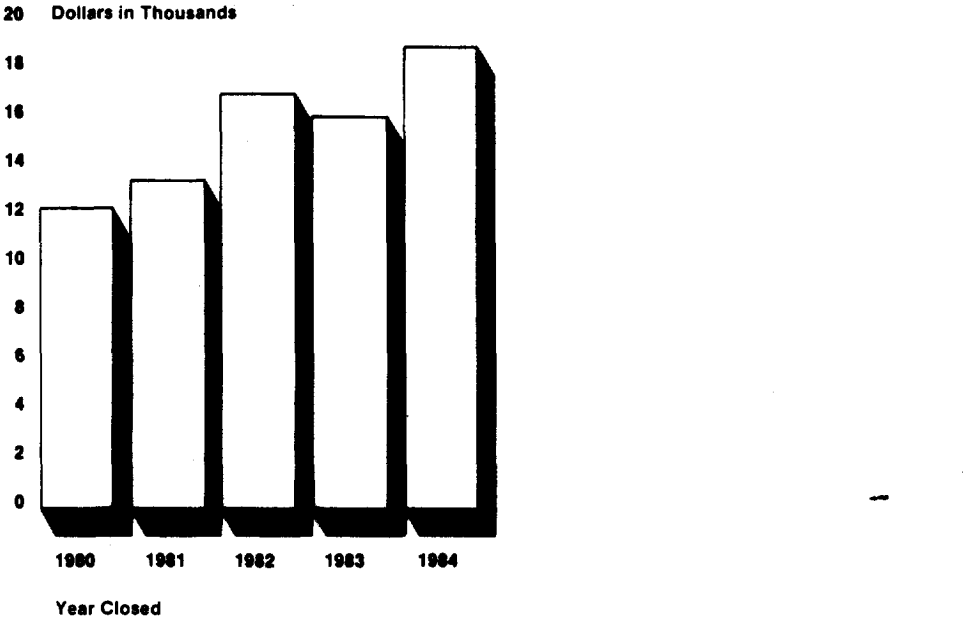
Figure 3: Frequency of Claims per 100 Occupied Hospital Beds, 1980-84



Size of Awards/Settlements

Based on the combined claims experience of the St. Paul Company and the Ohio Hospital Insurance Company shown in figure 4, the average paid claim against Arkansas hospitals increased from $12,000 in 1980 to $18,345 in 1984.

Figure 4: Average Paid Claim for Hospitals, 1980-84



Cost to Investigate and Defend Claims

The combined claims experience of the state's leading hospital insurers showed that the average cost per claim to investigate and defend claims against Arkansas hospitals almost doubled between 1980 and 1984—from $2,263 to $4,120.

The combined data of the leading hospital insurers in Arkansas show that the percentage of claims closed against hospitals with an indemnity decreased from 39 percent in 1980 to 26 percent in 1984. However, the percentage of claims closed with costs only to investigate and defend the claim doubled over the same period—from 14 to 28 percent. The percentage of claims closed with no expense remained relatively constant.

Major Medical Malpractice Problems—Current and Future

Three or more interest groups[6] we surveyed perceived major current and future problems with the size of legal costs and attorney's fees for medical malpractice claims. Three or more groups also expected major problems to develop during the next 5 years concerning the cost and availability of malpractice insurance for physicians, the cost and availability of reinsurance for primary insurers, and physicians having strong incentives to perform medically unnecessary tests or treatments.

Legal Expenses and Attorney's Fees for Malpractice Claims

The Arkansas Bar Association, the Arkansas Trial Lawyers Association, and the Arkansas Insurance Department believed that plaintiffs' legal costs in pursuing a claim are too high. These groups expect the problem to be a major concern in the future as well. The Arkansas Insurance Department officials stated that increased legal expenses, such as for expert witnesses and depositions, are currently a problem both for defending and pursuing a claim.

Officials of the Arkansas Trial Lawyers Association stated that many lawyers will spend $2,000 to $3,000 for expert review to assess the adequacy of evidence supporting a claim. They stated that malpractice suits are not a way to make money in Arkansas since a lawyer can easily spend $5,000 to $18,000 on such items as expert witnesses, depositions, and medical review of records. The Trial Lawyers Association said that if the amount of the fee is capped, the amount of the claim will simply be raised to cover legal expenses. An Arkansas Bar Association official stated:

"Health care providers, their insurance companies, and lawyers have made processing a patient's claim so expensive that the small case is not economically viable. But the contingency fee is not at fault. The vast majority of patients can't pay any other type of fee."

The physician group, medical malpractice insurers, and the Arkansas Insurance Department expect the high legal costs associated with defending malpractice claims to be a major problem during the next 5 years (1986-90).

Cost of Malpractice Insurance

The physician group, the medical malpractice insurer group, and the Arkansas Insurance Department expected the cost of basic liability

[6]Our methodology for obtaining the views of major interest groups and for analyzing their responses is described in GAO/HRD-87-21, pp. 10-11. The specific interest groups for Arkansas are presented in appendix II of this report.

insurance for physicians to be a major problem in the next 5 years. As was shown in table 2, physician rates have increased somewhat since 1980. Arkansas Insurance Department officials told us that relative to physicians' incomes, they believe the cost of malpractice insurance in Arkansas is still reasonable. They believe, however, that the problems with the cost of malpractice insurance will become a major future problem. They attributed their concern to an increase in the number of lawyers and lawyer advertising, an overall increase in the litigiousness of the state, and a decrease in insurers' capacity to write insurance.

Officials of the Arkansas Trial Lawyers Association pointed out that because there are now at least three carriers writing malpractice insurance in Arkansas, premiums may be going up, but not as much as in other states. An Arkansas Medical Society official stated that he has not heard outcries from physicians regarding the cost of malpractice insurance in the state, but that it may be just around the corner, because trends in Arkansas are always several years behind the rest of the country.

Availability of Malpractice Insurance

Major future concerns regarding the availability of insurance identified by three or more interest groups we surveyed were that

- physicians would be unable to find a source to purchase excess liability coverage and
- insurers would be unable to find a source from which to purchase sufficient reinsurance.

Specifically, the physician group, the Arkansas Hospital Association, and the Arkansas Insurance Department expected major problems to develop in the next 5 years regarding insufficient sources of excess liability coverage for physicians. The Arkansas Ophthalmological Society commented that because insurers are motivated by profitability, and because there are unknowns involved in "tail" coverage and excess liability coverage, insurers will not want to continue to assume this unknown risk. An Arkansas Hospital Association official commented that excess liability coverage will be difficult, but not impossible, to find in the future.

The Arkansas Hospital Association, the Arkansas Insurance Department, and the medical malpractice insurers believed that insufficient sources of reinsurance will be a major problem in the next 5 years. American Physicians Insurance Exchange officials stated that the

number of insurance companies providing reinsurance is decreasing and those that are, are doing so at increased costs. This, they stated, is in turn driving up the company's malpractice insurance rates.

Incentives to Practice Defensive Medicine

Arkansas' physician group, Hospital Association, malpractice insurers, and Insurance Department expected future problems related to the incentives for physicians to perform medically unnecessary tests or treatments to reduce their risk of liability. American Physicians Insurance Exchange officials noted that they are seeing a tendency for physicians to increase the number of tests in order to cover any possible questions at a later date. For example, they stated that they have seen the number of X-rays and electrocardiographs double, even though such tests are not warranted in many cases. They added that lawyers are encouraging physicians to perform more tests to protect themselves. The President of the Arkansas Society of Pathology stated that "common sense no longer dictates when to order tests."

Solutions to Malpractice Problems

To address malpractice problems, the state's hospital association, trial lawyers association, and bar association strongly supported (1) imposing sanctions or disciplinary measures against physicians and hospitals with medical malpractice histories and (2) increasing peer review of physicians' medical practices as means of addressing malpractice problems.

Role of the Federal Government

The Arkansas Hospital Association was the only group to express strong support for federal action. The Association strongly supported federal action to (1) establish a national policy regarding compensation for medically induced injuries, (2) establish a mechanism to provide financial incentives to states that take certain actions, (3) establish a mechanism to provide technical assistance to states and/or organizations, and (4) mandate a uniform system for resolving malpractice claims.

Officials of the Arkansas Bar Association stated that the individual states should be given time to see if they can resolve their own problems. The Arkansas Trial Lawyers Association stated that the federal government should stay out of the medical malpractice area because there is no way a uniform system can be developed because of differences in the states, people, and localities, which could cause individual judges to interpret laws differently.

Medical Malpractice Insurers Requested to Provide Statistical Data for Arkansas

	Provided Data for	
	Physicians	Hospitals
American Physicians Insurance Exchange	X	
Ohio Hospital Insurance Company		X
St. Paul Fire and Marine Insurance Company	X	X

Organizations Receiving GAO Questionnaire for Arkansas

Completing questionnaire	Not completing questionnaire
Physician group:	
Arkansas Medical Society	Arkansas Chapter of American Academy of Pediatrics
Arkansas Society of Pathology	Arkansas Orthopaedic Society
Arkansas Section, American College of Obstetricians and Gynecologists	Arkansas Psychiatric Society
Arkansas Society of Plastic and Reconstructive Surgeons	Arkansas Chapter, American College of Radiology
Arkansas Ophthalmological Society	Arkansas Chapter, American College of Surgeons
Association of Arkansas Neurosurgeons	Governor for Arkansas, American College of Physicians
Arkansas Academy of Family Physicians	
Arkansas Society of Anesthesiologists	
Hospital association:	
Arkansas Hospital Association	None
Bar association:	
Arkansas Bar Association	None
Trial lawyers:	
Arkansas Trial Lawyers Association	None
Malpractice insurers:	
American Physicians Insurance Exchange	St. Paul Fire and Marine Insurance Company
Mid-American Insurance Managers	
State insurance department:	
Arkansas Insurance Department	None

Number of Arkansas Hospitals in the Universe, GAO Sample, and Survey Response

Number of Hospitals		Hospitals completing questionnaire	
Universe[a]	Sample	Number	Percent
92	44	27	61

[a]1983 data.

Estimated Hospital Data and Related Sampling Errors for Policy Years 1983, 1984, and 1985

Table IV.1: Hospital Malpractice Insurance Costs and Related Sampling Errors by Type of Expenditure

Dollars in millions

	1983		1984		1985	
Expenditure	**Amount**	**Sampling error[a]**	**Amount**	**Sampling error[a]**	**Amount**	**Sampling error[a]**
Total costs	**$1.8**	**$.3**	**$1.8**	**$.4**	**$2.2**	**$.4**
Contributions to self-insurance trust funds	.5	.2	.4	.1	.7	.5
Premiums for purchased insurance	1.3	.3	1.4	.4	1.5	.2
Uninsured losses	.0	.0	.0	.0	.0	.0

[a]Sampling errors are stated at the 95-percent confidence level.

Note: Detail may not add to total due to independent estimation. The adjusted universe of hospitals to which the estimated amounts relate was 44 in 1983 and 51 in 1985. The adjusted universe is that portion of the total universe based on the sample response rate for which we can estimate data.

Table IV.2: Distribution of Annual Malpractice Insurance Costs and Related Sampling Errors for Hospitals

Figures in percents

	1983		1985	
Annual cost	**Hospitals**	**Sampling error[a]**	**Hospitals**	**Sampling error[a]**
Less than $10,000	35.6	11.2	26.1	11.9
$10,000 to $24,999	30.4	12.2	38.5	10.3
$25,000 to $49,999	16.1	8.5	16.1	11.0
$50,000 to $99,999	6.0	0.0	5.7	5.0
$100,000 to $249,999	7.4	6.3	11.6	5.5
$250,000 to $499,999	4.5	0.0	2.0	0.0
$500,000 to $999,999	0	0.0	0	0.0
$1 million or more	0	0.0	0	0.0

[a]Sampling errors are stated at the 95-percent confidence level.

Note: The adjusted universe of hospitals was 44 in 1983 and 51 in 1985.

Table IV.3: Average Malpractice Insurance Costs per Inpatient Day and Related Sampling Errors

1983		1984		1985	
Cost per day	**Sampling error[a]**	**Cost per day**	**Sampling error[a]**	**Cost per day**	**Sampling error[a]**
$1.09	$.18	$1.24	$.32	$1.50	$.29

[a]Sampling errors are stated at the 95-percent confidence level.

Table IV.4: Average Annual Malpractice Insurance Costs per Bed and Related Sampling Errors

1983		1984		1985	
Cost per bed	**Sampling error[a]**	**Cost per bed**	**Sampling error[a]**	**Cost per bed**	**Sampling error[a]**
$353	$68	$418	$129	$474	$105

[a]Sampling errors are stated at the 95-percent confidence level.

Table IV.5: Distribution of Changes in Malpractice Insurance Costs per Inpatient Day From 1983 to 1985 and Related Sampling Errors

Figures in percents

Change	Hospitals	Sampling error[a]
Increases of less than 10% or decreases	30.3	14.6
Increases of 10% to 49%	35.1	15.7
Increases of 50% to 99%	25.5	14.2
Increases of 100% to 199%	9.2	7.6
Increases of 200% to 299%	0.0	0.0
Increases of 300% or more	0.0	0.0

[a]Sampling errors are stated at the 95-percent confidence level.

Note: The adjusted universe of hospitals was 44.

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