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MEDICAL LIABILITY CRISIS CREATING “BLEAK” SITUATION IN FLORIDA, COULD WORSEN WITHOUT REFORMS, NEW STUDY FINDS

ORLANDO, Fla., November 22, 2002^{3/4}A new study finds that Florida faces a “bleak” medical liability crisis, with doctors facing more claims and liability losses, and paying substantially more for insurance, than physicians in nearly any other state.

The study, prepared by the actuarial firm Milliman USA, finds that Florida doctors and hospitals are reducing their liability coverage, and sometimes going uninsured, due to skyrocketing premiums. The study also finds that some hospitals are self-insuring or using other means of liability protection in an effort to cut their premium costs, sometimes at the risk of underfunding their exposure to losses.

The findings “paint a bleak picture for Florida, but we believe it could get worse in the coming years if no corrective action is taken,” the Milliman USA study says.

The Milliman study examines closed medical liability claims data maintained by the Florida Department of Insurance, along with the National Practitioners Data Bank. The study was conducted on behalf of the Florida Hospital Association, one of the groups spearheading the Coalition to Heal Healthcare in Florida. The coalition, which includes more than 50 top medical and business groups, is asking state lawmakers to fix Florida’s broken medical liability system during the 2003 annual legislative session.

“This study reinforces what we’ve been saying for some time—Florida’s excessive liability system needs a legislative fix now,” said Wayne NeSmith, president of the Florida Hospital Association. “This crisis is already hurting citizens all across Florida, because it’s threatening their ability to obtain healthcare services.”

The study was presented today to the Governor’s Select Task Force on Healthcare Professional Liability Insurance by Dick Biondi, a Milliman principal. The task force was meeting in Orlando.

(more)

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Among the study’s key findings:

- Medical liability losses paid by insurers in Florida rose 150 percent between 1991 and 2000, including a 28 percent increase from 1999 to 2000.
- Medical liability losses paid per physician in Florida during 2000 were 50 percent higher than the national average.
- Non-economic or “pain and suffering” damages account for 77 percent of the liability loss payments made by Florida hospitals.
- The frequency of liability claims paid per physician in Florida during 2000 was higher than all but four other states—Pennsylvania, Montana, Nevada and West Virginia—and 36 percent above the national average.
- Liability losses per physician in Florida during 2000 were higher than all but five other states—Pennsylvania, Montana, New York, Nevada and West Virginia—and the District of Columbia, and were 50 percent above the national average.

The study makes special note that “one of the primary drivers” of the medical liability crisis is the large percentage of liability losses related to non-economic damages. “Pain and suffering is subjective in nature, in that it can’t be tied to actual costs incurred by injured patients,” the study says. “Every new record award sets a new higher value on pain and suffering, and precedents keep getting established for higher valuations on all future awards and settlements.”

Florida currently has no guidelines for evaluation or measurement of non-economic damages.

The study’s authors add: “We believe that caps on non-economic damages are particularly effective because they limit the escalation of awards for pain and suffering, which fuels large increases for all awards and settlements. The impact of a cap on non-economic damages would be an immediate savings and a tempering of one of the primary components of future loss trends.”

The study notes that California, which has capped non-economic damages at \$250,000 since the mid-1970s, has medical liability costs about half the national average.

Nationally, many “insurers and reinsurers have left or are leaving” the medical liability market, “creating severe availability problems in many states,” the study adds. The authors note that “insurance premiums may become unaffordable and/or coverage may become unavailable at any price to many physicians and hospitals.”