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NEW STUDY SHOWS INSURANCE INDUSTRY, NOT LAWSUITS, CAUSING INSURANCE RATES TO SKYROCKET FOR WEST VIRGINIA DOCTORS

West Virginia Reflects Identical National Trends

NEW YORK — As two dozen West Virginia surgeons remain on strike over skyrocketing medical malpractice insurance rates, Americans for Insurance Reform (AIR), announced today the release of a comprehensive new study of medical malpractice insurance in West Virginia. The study shows that the causes of and solutions to this crisis lie not with the legal system (*i.e.,* capping damages) but with the business practices of the insurance industry.

The study by AIR, a coalition of over 100 consumer and public interest groups representing more than 50 million people, makes nearly identical findings to those reached in a similar AIR study of national trends released in October 2001. Specifically, the study, *Stable Losses/Unstable Rates in West Virginia,* shows that West Virginia's insurance crisis has not been caused by the legal system or jury verdicts. Rather, it is a self-inflicted phenomenon caused by the mismanaged underwriting practices of the insurance industry.

Stable Losses/Unstable Rates in West Virginia makes two specific findings: First, over the last decade, medical malpractice payouts have approximately tracked the rate of medical inflation, with medical malpractice claims payments (in constant dollars), including all jury verdicts and settlements, essentially flat over the last decade. Second, over the last 30 years, insurance premiums have not tracked payouts at all but instead directly followed the ups and downs of the economy.

When the economy is strong and the insurance industry's investments are gaining, medical malpractice rates have decreased. On the other hand, when the economy is weak, as it has been since the second half of 2000, the insurance industry's investment loses precipitate sudden medical insurance rate increases.

These findings suggest that the real reason medical malpractice insurance rates have fluctuated so dramatically in West Virginia is market forces – not, as the insurance industry claims, because of a sudden massive increase in medical malpractice jury awards or payouts, which have stayed essentially flat over the last decade.

“These data together constitute a ‘smoking gun,’ which should, once and for all end the debate about the cause of the current medical malpractice crisis for West Virginia doctors,” said the author of the study, J. Robert Hunter, Director of Insurance for the Consumer Federation of America, former Texas Insurance Commissioner and AIR co-founder. “Insurers, whose own investment actions have made insurance unaffordable and unavailable, are blaming others for their own mismanagement by manufacturing a crisis for surgeons and other doctors that simply should not exist. By increasing rates, insurers are forcing hospitals, doctors, and ultimately patients, to suffer for their poor business and investment decisions.”

Hunter said, “There is only one way to solve this problem: reforming the business and accounting practices of the insurance industry. State regulators must enforce and state lawmakers must strengthen state insurance laws in order to end the boom and bust swing from illegal overpricing, such as the rates doctors are being asked to pay today, to illegal and inadequate underpricing, which will be seen when the market softens too much later in the cycle.”

The findings of AIR’s study come at a crucial time, as two dozen surgeons in West Virginia have walked out, risking patients lives, and are trying to intimidate state lawmakers into limiting their liability when their negligence causes injury or death. According to the *Charleston Gazette,* half of those striking at Wheeling Hospital have been responsible for making significant medical errors, including “operating on the wrong knee, causing the need for a liver transplant by leaving a surgical clip on an artery, and causing a massive and fatal infection by inadvertently slicing into a patient’s stomach.”

Joanne Doroshow, Executive Director of the Center for Justice & Democracy and AIR co-founder, said “For far too long, the insurance industry has been engaged in a pricing scheme designed to gouge the American people based on a premise that lacks any basis in fact. Moreover, the insurance industry has been lobbying state legislatures around the country and Congress to limit a consumer’s legal rights by publicly putting out wrong and misleading information. While insurance companies are blaming high rates on the increase in claims by patients, rising verdicts and exploding tort system costs, in reality, it is the insurance industry’s efforts to make up for their economy-driven, market-based investment losses that are the cause. There needs to be a serious investigation into the kinds of shenanigans the insurance industry has been engaging in when it comes to medical malpractice.”

The full study can be found at: http://insurance-reform.org.

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Americans for Insurance Reform is a coalition of over 100 consumer groups from around the country that is attempting to strengthen state oversight of insurance industry practices.

AIR is not connected to any trial lawyer or business group. AIR studies are done *pro bono* by actuaries and experts.