



Medical Malpractice - April 2011 Update

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Although the malpractice crisis—the inability of health care providers to obtain affordable liability insurance—has abated in many states, medical liability costs and pressures remain a concern. Insurance premium costs continue to be a financial burden for many health care providers, and may be passed on to patients and health insurers in the form of higher prices. Moreover, the perceived threat of litigation spurs “defensive medicine”—the practice of ordering services primarily to reduce the physician’s liability exposure rather than because they are medically necessary. Defensive medicine contributes to the growth of health care expenditures. There is wide consensus that liability pressure undermines efforts to curb overuse of health services, although there is disagreement about the magnitude of its effect.

For these reasons, interest in medical malpractice reforms among state and federal policy-makers remains high. In recent months, President Obama authorized the appropriation of \$75 million to fund demonstration projects of innovative liability reforms that advance patient safety. At the same time, courts in several states have struck down the cornerstone of more traditional approaches to liability reform: caps on noneconomic damages. At this point, what are the most promising approaches to liability reform?

Key Findings:

- Except for caps on noneconomic damages, there is little or no evidence that most traditional malpractice reforms significantly affect medical liability costs or defensive medicine.
- Although study findings are mixed, the weight of the evidence suggests caps on noneconomic damages substantially reduce average claim payments, modestly constrain the growth of malpractice insurance premiums, and reduce at least some defensive-medicine practices.
- Several more innovative reforms are promising, though they have not been widely implemented or evaluated.

This update reviews the evidence concerning the effects of both traditional and innovative medical liability reforms on defensive medicine and medical liability costs. Since the [original synthesis report](#) was released in 2006, the quantity and quality of studies in this area have increased substantially, incorporating more recent data than the studies previously reviewed.