

To Reduce Medical Malpractice Costs: Keep Incompetent and Impaired Doctors From Practicing Medicine

Only 4% of doctors in New York accounted for nearly half of all medical malpractice payments.

The vast majority of doctors do admirable work under enormous pressure. Unfortunately, though, a significant minority of doctors practice unsafe medicine – injuring patients and driving up healthcare costs for everyone.

A study issued in 2007 by the public interest group Public Citizen found that from 1991 to 2006 **only four percent of physicians in New York accounted for 49.6% of dollars paid for malpractice incidents. Only 10.8% of these doctors had received licensure actions.**¹

In a survey of physicians reported in the *Journal of the American Medical Association* in 2010, **17% of the respondents said that they had direct knowledge of an incompetent or impaired colleague over the previous three years.** The survey was conducted by researchers at Massachusetts General Hospital of approximately 2,000 physicians practicing in the U.S. in 2009.²

In the *Annals of Internal Medicine*, Harvard University patient safety authorities Drs. Lucian Leape and John Fromson wrote that **“at least one third of all physicians will experience, at some time in their career, a period during which they have a condition that impairs their ability to practice medicine safely”** and “as many as ten percent of physicians will demonstrate

¹ Public Citizen, *A Self-Inflicted “Crisis” – New York’s Medical Malpractice Insurance Troubles Caused by Flawed State Rate Setting and Raid on Rainy Day Fund*, November 2007, p 24.

² Catherine M. DesRoches, DrPH; Sowmya R. Rao, PhD; John A. Fromson, MD; Robert J. Birnbaum, M, hD;, MD, MSc; Christine Vogeli, PhD; Eric G. Campbell, PhD, “Physicians’ Perceptions, Preparedness for Reporting, and Experiences Related to Impaired and Incompetent Colleagues,” *Journal of the American Medical Association*, July 14, 2010.

significant deficiencies in knowledge or skills" at some point.³ Dr. Leape, the lead author of the landmark Harvard Medical Practice Study, is considered the father of the modern hospital patient safety movement

Keeping doctors who are incompetent or impaired from practicing medicine would dramatically reduce the incidence of medical malpractice and generate enormous reductions in medical malpractice insurance premiums and massive savings for healthcare insurance plans, hospitals and Medicaid. Unfortunately, however, New York's system for weeding out incompetent doctors does not adequately protect the public:

According to a report issued by a coalition of New York consumer advocacy groups in 2010, *System Failure: A Review of New York's Doctor Discipline System*, in 2009 the Office of Professional Medical Conduct (OPMC) of the New York State Department of Health **brought disciplinary actions against only 292 physicians and physician assistants, a fifteen-year low.** Yet since 1995 the number of doctors practicing in the state rose 26% to nearly 65,000, and the number of complaints against physicians filed with OPMC soared 63%.⁴

Between 2008 and 2011 staffing levels at the Office of Professional Medical Conduct declined by an overall 7.3%. There were reductions across the board, in professional staff, investigative support, management and administration.⁵ The Office needs *more* staff, not less.

To lower medical malpractice insurance premiums, start with getting tough on unsafe doctors.

³ Lucian L. Leape, MD, John A. Fromson, MD, "Problem Doctors: Is There a System-Level Solution?," *Annals of Internal Medicine*, January 17, 2006.

⁴ New York Public Interest Research Group (endorsed by Center for Justice & Democracy, Center for Medical Consumers, Consumers Union), *System Failure- A Review of New York's Doctor Discipline System*, June 2010.

⁵ Full-time equivalent "professionals" declined from 98 to 91.6, "management" from 20.5 to 19, "investigative support" from 37.5 to 36.5, and "administration" from 15.5 to 11.8.