

## AAJ TALKING POINTS

### DEFENSIVE MEDICINE

- There is no evidence that doctors run unnecessary tests because of liability concerns.
- Doctors run more tests because it benefits patients, not because of liability concerns.
- Studies from the Congressional Budget Office<sup>1</sup> and Government Accountability Office<sup>2</sup> have all cast doubts on the existence of defensive medicine.
- The Institute of Medicine estimates that there are 98,000 deaths per year due to medical errors.<sup>3</sup>
- Making changes to the civil justice system will not make one patient safer.
- Reducing the frequency of medical errors, and specifically, errors caused by negligence, will unquestionably save lives.
- America's legal system provides justice for deserving, injured individuals while holding wrongdoers accountable.

#### Background

*These talking points were created in response to claims that doctors run unnecessary tests to avoid being sued, called “defensive medicine.”*

*Additional background:*

- **Harvard Researchers Say 97 Percent of Medical Malpractice Claims are Meritorious.** A study by researchers at the Harvard School of Public Health found that 97 percent of medical malpractice claims are meritorious and that 80 percent of claims involved physical injuries that resulted in major disability or death.. The authors noted that “portraits of a malpractice system that is stricken with frivolous litigation are overblown.” [New England Journal of Medicine, 5/11/2006]

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<sup>1</sup> Congressional Budget Office, *Limiting Tort Liability for Medical Malpractice*, January 8, 2004; see also Congressional Budget Office, *Budget Options, Volume I, Health Care*, 21, Dec. 2008.

<sup>2</sup> Government Accountability Office, *Medical Malpractice: Implications of Rising Premiums on Access to Health Care*, September 29, 2003.

<sup>3</sup> To Err Is Human: Building a Safer Health System, Institute of Medicine (IOM), <http://www.nap.edu/books/0309068371/html/>.