

DECLINING MEDICAL MALPRACTICE CLAIMS, INCREASING MEDICAL ERRORS

A simple analysis by the Committee for Justice for All in Kingston, Pennsylvania compared public information available on medical malpractice claims as opposed to medical errors. The data consists of Mcare Fund payouts, commercial insurance claims and Pennsylvania Patient Safety Authority data. The Mcare Fund is a creature of the Pennsylvania Insurance Department and supplies half the medical malpractice insurance coverage that doctors and hospitals are required to carry as a result of medical errors that cause harm to patients.

The data shows the number of case filings according to the Administrative Office of the Pennsylvania Courts as of April 2009. In the year 2000 the number of case filings throughout the entire Commonwealth of Pennsylvania was 2,632. That already small number fell every year for which statistics have been kept down to 1,602 in 2008. Considering the number of hospital admissions in Pennsylvania, that is an astoundingly small figure.

During that same period of time the Mcare Fund has paid out claims amounting to approximately \$379,000,000.00 in 2003, statistics not being available for earlier years, all the way down to \$174,000,000.00 in 2008. That is one of the most dramatic drops in medical malpractice claims ever recorded.

As a basis of comparison, commercial insurance premiums as opposed to claims paid out were reviewed for the same period of time. Commercial insurance would include the kind of coverages that businesses ordinarily carry when they have to pay out claims for negligently caused injuries. In the period of 2004 through 2007 a relatively stable premium

collection of seven hundred million plus dollars is shown for the entirety of businesses in Pennsylvania. During that same period of time commercial insurance claims paid has dropped from approximately \$516,000,000.00 down to \$370,000,000.00, which demonstrates the significantly increased profitability for the commercial insurance business.

The last two columns may be the most controversial. According to the Pennsylvania Patient Safety Authority reporting required to be filed under Act 13, the total of “errors” has increased to approximately \$212,000.00 in 2007 with serious events at 7277 for the same year. This is not the entirety of the story as the most Recent report of the Patient Safety Authority demonstrates. That Report can be accessed at www.psa.state.pa.us .

The Patient Safety Authority report makes it clear that these reports of “incidents” and “serious events” are not necessarily “errors.” Serious events are occurrences in hospitals where death resulted or unanticipated injury requiring additional medical care.

These “serious events” may or may not be errors. Incidents are occurrences where additional medical care is not required and are sometimes referred to as “near misses.” There has been a great deal of controversy as to the significance of an increase in incidents and serious events recorded by the Pennsylvania Patient Safety Authority. Is this as a result simply of better reporting? Is the reason for this more “errors?” Is there a heightened awareness by hospitals of the necessity to keep track of patient care? We do not know the answers and the Patient Safety Authority has struggled during the entirety of its existence as to whether to require reporting only of “errors” or simply all occurrences which may include errors.

What is apparent is that the commercial and medical malpractice insurance business in Pennsylvania is extremely profitable, that the number of claims for bad medical care is shockingly small and that the Patient Safety Authority has expressed a great deal of concern about reporting, the viability of reporting and what those reports signify. The most recent report of the Patient Safety Authority is must reading for anyone concerned about the status of patient care in Pennsylvania. The reader will have to make his or her own conclusions about the state of health care in Pennsylvania and whether it is improving or is impaired.

One issue which is beyond her question, however, is that medical malpractice claims constitute a very small aspect of health care in Pennsylvania. One doctor in a position of leadership said that the health care industry in Pennsylvania needs both the carrot and the stick in order to insure patient safety. Have we provided too many carrots and not enough of the stick? There is no question that financial remedies to innocent injured patients are one way to reduce the costly catastrophe of medical errors. Medical errors entail huge costs to make the patient well who should not have been injured in the first place. It is a very large measure of the health care bill in the United States. Physicians and scientific groups that have studied patient safety in the United States believe that the number of preventable deaths in American hospitals would be the equivalent of two 747s crashing and killing all aboard every single month. Those medical authorities have sounded the alarm ever since the seminal study published by the Institute of Medicine to Err is Human, Building a Safer Health Care System initially published in the fall of 1999.

Building a better health care system is what the nation, Congress and the President is currently concerned with. There will be much attention paid to this issue in the coming months. Patient safety must be a part of that equation without removing remedies owed to patients damaged by the neglect of others.

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PA Medical Malpractice Claims vs. Medical Errors
 MCARE Fund Payouts, Commercial Insurance Claims
 and PA Patient Safety Authority Data

Year	Case Filings ⁱ	MCARE Claims ⁱⁱ	Commercial Insurance Premiums ⁱⁱⁱ	Commercial Insurance Claims Paid ^{iv}	Loss Ratio ^v	Total Errors ^{vi}	"Serious" Errors ^{vii}
2000	2,632	N/A				N/A	N/A
2001	2,659	N/A				N/A	N/A
2002	2,904	N/A	\$458,131,000 (FY02-03)	\$510,741,000	111.48%	N/A	N/A
2003	1,712	\$378,720,772	\$564,017,000 (FY03-04)	\$551,557,000	97.79%	N/A	N/A
2004	1,817	\$320,339,689	\$716,373,000 (FY04-05)	\$515,800,000	72.00%	70,851	N/A
2005	1,700	\$232,588,740	\$710,923,000 (FY05-06)	\$460,733,000	64.81%	169,072	6,763
2006	1,693	\$209,522,349	\$745,104,000 (FY06-07)	\$372,480,000	49.99%	195,832	6,854
2007	1,617	\$191,365,811	\$709,922,000 (FY07-08)	\$369,151,000	52.00%	211,983	7,277
2008	1,602	\$173,892,874	N/A	N/A		219,874	8,645

ⁱ "PA Medical Malpractice Case Filings: 2000-2008," Administrative Office of the PA Courts, April 2009
ⁱⁱ "MCARE Fund Annual Report of Operations," 2003-2008
ⁱⁱⁱ "Annual Statistical Report of the Insurance Department of Pennsylvania," 2002-2007
^{iv} "Annual Statistical Report of the Insurance Department of Pennsylvania," 2002-2007
^v "Annual Statistical Report of the Insurance Department of Pennsylvania," 2002-2007
^{vi} PA Patient Safety Authority Annual Reports, 2004-2008
^{vii} PA Patient Safety Authority Annual Reports, 2004-2008