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NEWS RELEASE

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New 2002 Government Data Disputes Malpractice Lawsuit “Crisis” in West Virginia

Malpractice Payouts Declined as Insurance Premiums Spiked; 10 Percent of West Virginia Doctors Are Responsible for 60 Percent of Malpractice Payouts

WASHINGTON, D.C. – New government data show that both the number and amount of payments to medical malpractice victims declined in West Virginia in 2002, casting further doubt on the assertion that lawsuits are responsible for doctors’ insurance premium increases.

According to a Public Citizen analysis of new federal National Practitioner Data Bank (NPDB) records for last year, the total damages paid to West Virginia medical malpractice victims declined by 30.8 percent, from \$49.3 million in 2001 to \$34.1 million in 2002. When adjusted for medical services inflation the decline was even more dramatic – 34 percent. (See Figure 1 in the attachment.) The cost of medical care typically represents the greatest cost in a medical malpractice payout.

The mean payment per malpractice victim decreased by 22.2 percent in 2002, from \$272,558 in 2001 to \$212,076 in 2002. When accounting for medical services inflation the decline was actually 25.8 percent.

The number of medical malpractice payouts in West Virginia decreased by 11 percent, from 181 in 2001 to 161 in 2002, while the number of awards over \$1 million dropped from 8 to 0 during that same period. The data bank, a U.S. government agency, collects reports of every judgment or settlement paid to malpractice victims throughout the country by insurance companies on behalf of doctors.

The U.S. Senate is expected to vote Wednesday on legislation that would significantly limit patients’ ability to hold medical providers accountable for negligence. The bill, S. 11, would arbitrarily cap the amount of non-economic damages available to malpractice victims at \$250,000 – penalizing those most seriously harmed by doctors and other health care providers.

The bill's proponents claim that malpractice insurance rates are rising because of malpractice awards to patients, but all available data show that the legal system has no impact on insurance rates. Rather, insurance rates are tied to investment returns from the bond and stock markets and to the competitive economics of the insurance cycle.

"It's clear from these numbers that the insurance premium increases over the past year are not tied to lawsuits," said Joan Claybrook, president of Public Citizen. "The only thing that correlates with the premium increases is the decline in malpractice insurers' investment income."

"Given increasing health care costs, the decline in damages awarded means that malpractice payments are becoming an even more miniscule portion of the nation's overall health care costs," Claybrook said. In 2000, the total amount of premiums paid for malpractice insurance constituted 0.56 percent of all health care expenditures.

According to Public Citizen's analysis of 2002 NPDB data, a small number of West Virginia doctors are responsible for well over half of all malpractice payments, yet disciplinary actions (license suspension or revocation, or a limit on clinical privileges) for these doctors have been few and far between. The data showed that:

- Just 10.2 percent of doctors in West Virginia made two or more malpractice payouts and were responsible for 60 percent of all payouts between 1990 and 2002. Just 4.1 percent of all doctors have made three or more malpractice payouts, amounting to 35.8 percent of all malpractice payouts in the state. (See Figure 2 in the attachment.)
- Only 14.1 percent (22 of 156) of West Virginia doctors who made three or more malpractice payouts have been disciplined. Only 28.2 percent (11 of 39) of those doctors who made five or more malpractice payouts have been disciplined. (See Figure 3 in the attachment.)

"The American Medical Association says that 100 doctors were put out of business last year in West Virginia because of rising medical malpractice insurance rates, yet the damages paid out in West Virginia dropped by 31 percent during the same period. If that \$15 million in savings didn't help, how would damage caps solve the problem?" Claybrook added.

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Public Citizen is a national, nonprofit consumer advocacy organization based in Washington, D.C. For more information, please visit www.citizen.org.

Figure 1
West Virginia Medical Malpractice Payouts, 2001 to 2002

	Number of Payouts	Total Amount of Payouts	Total Payouts Adjusted for Medical CPI (in 2001 dollars)	Mean Payout	Mean Payout Adjusted for Medical CPI (in 2001 dollars)	Payouts Over \$1 Million
2001	181	\$49,333,000	\$49,333,000	\$272,558	\$272,558	8
2002	161	\$34,144,300	\$32,573,662	\$212,076	\$202,320	0
Change, 2001-2002	-11.0%	-30.7%	-34.0%	-22.2%	-25.8%	-100%

Sources: National Practitioner Data Bank, Sept. 1, 1990 – Dec. 31, 2002. Bureau of Labor Statistics – Medical Services CPI.

Figure 2
Number of Medical Malpractice Payouts to Patients and Amounts Paid by West Virginia Doctors, 1990-2002

Number of Payout Reports	Number of Doctors that Made Payouts	Percent/Total Doctors (3,948)*	Total Number of Payouts	Total Amount of Payouts	Percent of Total Number of Payouts
All	1,109	28.1%	1,759	\$368,117,700	100.0%
1	705	17.9%	705	\$142,675,750	24.2%
2 or more	404	10.2%	1,054	\$225,441,950	60.0%
3 or more	162	4.1%	629	\$119,902,650	35.8%
4 or more	71	1.8%	401	\$65,676,750	22.8%
5 or more	45	1.1%	309	\$52,654,500	17.6%

*Based on West Virginia's population of doctors as calculated by the American Medical Association for 1997, the closest year for which such data is available to the mid-point of the time period studied.

Source: National Practitioner Data Bank, Sept. 1, 1990 – Dec. 31, 2002.

Figure 3
Number of West Virginia Doctors with Two or More Medical Malpractice Payouts Who Have Been Disciplined (Reportable Licensure Actions), 1990-2002

Number of Payment Reports	Number of Doctors that Made Payouts	Number of Doctors with One or More Reportable Licensure Actions	Percent of Doctors with One or More Reportable Licensure Actions
2 or more	398	38	9.5%
3 or more	156	22	14.1%
4 or more	65	14	21.5%
5 or more	39	11	28.2%
10 or more	3	3	100.0%

Source: National Practitioner Data Bank, Sept. 1, 1990 – Dec. 31, 2002.