

# WHAT INFORMATION DON'T DECISION MAKERS HAVE ABOUT MEDICAL MALPRACTICE?

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*For three years, Pennsylvania doctors have argued that high medical malpractice rates caused by “an explosion” of lawsuits and “jackpot juries” have prompted more than 1,400 doctors to either cut back on the services they provide, stop practicing all together or move out of state. However, none of those claims are verifiable and decision makers do not even have access to basic pieces of information they need to make informed decisions about how best to aid doctors who have seen their insurance rates spiral out of control. Will they get it before they take away an injured patient’s rights to full and fair compensation?*

## **INFORMATION DECISION MAKERS DON'T HAVE ABOUT MEDICAL MALPRACTICE:**

- 1) **The number of Pennsylvania doctors and their specialties.** Recently, the state Department of Insurance released new data that revealed that the Commonwealth has seen an increase in the number of doctors practicing rather than a decrease as the doctors and other caps proponents have alleged. In fact, the number of doctors paying into MCare, which every practicing physician is required to pay into, has increased by over 1,000 since the supposed “exodus” of doctors began three years ago. However, no entity – not MCare, the Department of State, the Pennsylvania Medical Society or any other state or federal entity -- keeps reliable data on the number of doctors practicing in Pennsylvania by specialty. It is therefore impossible to verify or otherwise support any claims that “Type A” or “Type B” of physicians are “fleeing” the state because of high medical malpractice awards.
- 2) **The amount paid out annually in non-economic damages.** For the argument that caps will lower doctors’ medical malpractice rates to be true, there must be a significant percentage of overall medical malpractice payments that go for non-economic damages. (Moreover, there must be a large percentage that is for amounts over \$250,000, the preferred limit of the pro-caps contingent). However, no agency or entity collects information about how much is paid out in non-economic damages annually, how many of those judgments are above \$250,000 or even what percentage of total payments for medical malpractice are comprised of compensation for non-economic damages. Therefore, it is impossible to accurately determine what effect a cap on non-economic damages might have.
- 3) **The number of medical malpractice cases filed annually or their disposition.** In Pennsylvania, there is no central depository of information about the number of medical malpractice cases filed annually or what their outcome is. Each county is responsible for administering their own claim system, but many counties do not track them by subject matter – including some of the biggest counties in the Commonwealth. They are all lumped together into “civil” claims, along with auto accidents, product liability and every other type of civil claim. Therefore, it is impossible to support a claim that there has been an “explosion” in the number of medical malpractice cases filed or of jury awards, because no one tracks them.
- 4) **The number of preventable medical errors committed in Pennsylvania hospitals or the names of the doctors who committed them.** The doctors and hospitals in Pennsylvania have strenuously fought against increasing disclosure of preventable medical errors and the doctors who commit them. It is indisputable that some patients are hurt because of preventable medical, but it is impossible to tell how big of a problem these errors are because no one tracks them. Without tracking them, it is virtually impossible to reduce their number.