An Analysis of the Rise in Medical Malpractice Premiums and Alternative Solutions within the Current Political Environment.

April 1, 2004
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Primary Reader: Adam Gottstein, MD, MPH

Secondary Reader: Felicia Mebane, PhD
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Introduction

Medical malpractice premiums have increased for doctors in the last several years and reforming this situation has become a top priority for many physicians and physician groups including the American Medical Association. The purpose of this paper is to analyze the issue of rising medical malpractice premiums in the context of the current political environment and possible solutions based on the effectiveness, political viability and cost/benefit ratio of each possible solution.

The first half of the paper will address all sides of the issue including the state of medical malpractice in the U.S. and the key populations involved. An evaluation of the current political context will also be included in this section. The second half of the paper will address possible solutions to the issue. In the end, it should be apparent that medical malpractice reform is a complicated issue that will not be easily solved in the current political environment.

Medical Malpractice Premiums as a Health Care Issue

Current Opinions

Many physicians have become vocal on the issue of malpractice reform and the American Medical Association (AMA), a powerful lobbying force in Washington, DC, has made the issue its top priority. The opinion of the AMA is that high premiums are forcing physicians to limit services, retire early, or move their practices to a state where
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**Medical Malpractice Premiums as a Health Care Issue**

**Current Opinions**

Many physicians have become vocal on the issue of malpractice reform and the American Medical Association (AMA), a powerful lobbying force in Washington, DC, has made the issue its top priority. The opinion of the AMA is that high premiums are forcing physicians to limit services, retire early, or move their practices to a state where
premiums are more stable. The AMA feel that it has reached a crisis situation and is threatening access to health care.

Some insurance companies, the current Bush Administration, as well as certain other physician groups are lobbying for policies that would cap non-economic liability claims as a solution to this rise in premiums. Non-economic liability claims compensate injured consumers for intangible injuries, like infertility, permanent disability, disfigurement, pain and suffering, loss of a limb or other physical impairment. However, public watch groups and consumer organizations like Public Citizen feel this solution will cause harm to patients and do little for reducing malpractice premiums for doctors.

The root difference between the two groups is what they believe caused medical malpractice premiums to increase. Some physicians, consumer groups and professional attorney societies believe that insurance companies have raised premiums to make up for losses from stock market investments. The groups lobbying for caps in non-economic losses believe that the rise has been do to an increase in litigation and large jury rewards.

**History of Medical Malpractice**

The current debate over the rise in malpractice premiums is not a new phenomenon. Like many health care issues, this problem has a cyclical nature. Medical malpractice insurance premium rates have seen
dramatic increases twice before: the mid-1970's and the mid-1980's. At these two times in history, total premiums doubled within a three-year period. Because the changes were so swift, physicians felt they were in a "crisis" situation and many state level reforms were implemented.

The most notable of these reforms was in the state of California. The legislators in the California State House introduced strict caps on non-economic damaged awards in 1975. These changes were known as the Medical Injury Compensation Reform Act (MICRA). In 1988, California established more regulations on the malpractice insurance rates. Proposition 103, as it was called, established legislation that entailed rolling back causality and property insurers rates, freezing them at that rate for one year and requiring prior approval from malpractice insurers before any changes in premiums could occur. The legislation also tightened anti-trust exemptions for insurance companies. These changes were used as models for subsequent changes made to state as well as federal laws. The actual benefit of these solutions will be discussed in a later section.

Current Cost of Medical Malpractice Premiums

The amount physicians pay for their malpractice insurance differs by state, city, doctor and medical specialty. For example, an internal medicine physician can pay $3,803/year in Minnesota and in Florida pay $56,153/year for the same coverage. In the same location, doctors, in
higher risk specialties, pay more for their premiums. For example, a
doctor who practices obstetrics/gynecology (OB/GYN) would pay
$201,376/year in Florida instead of the $56,153/year paid by the internal
medicine doctor. Over the last couple of years, the average increase in
premiums has been 30% with a range of 24%-65%. These figures may
seem staggering but malpractice premiums as a whole represent only
about 1 percent of the country’s total medical care bill.

Key Stakeholders

Stakeholders are persons or groups, who are affected by an action.
In this section, four groups will be analyzed in terms of their ability to
affect change in the issue of medical malpractice and how they might be
affected by a solution. The four groups are physicians, insurance
companies, lawyers and patients.

Physicians

Physicians are major stakeholders for this issue because it affects
their business directly. However, changes in medical malpractice do not
affect all physicians equally and not all physicians agree on the solution.
As stated earlier, physicians in higher risk specialties like surgery and
OB/GYN have disproportionately higher malpractice premium than other
physicians. Physicians in these specialties have a vested interest in
seeing the issue resolved and their specific medical societies have focused
their lobbying abilities on this issue. For example, the American College
of Obstetricians and Gynecologists (ACOG) is the national medical organization that represents over 40,000 physicians, who provide health care for women and on April 1st, 2003, they initiated a two-month lobbying campaign entitled, “Who Will Deliver My Baby?” to advocate for capping liability rewards as a solution to the increase in malpractice premiums.\textsuperscript{18,19}

The American Medical Association (AMA) has made this issue its number one priority.\textsuperscript{4} This medical association is a powerful lobbying entity spending 2.4 millions dollars in political contributions in the year 2000.\textsuperscript{20} Their lobbying has focused on solutions that include limiting non-economic damages.\textsuperscript{4}

Not all physicians share the opinions of the American Medical Association. Physicians at the Institutes of Medicine (IOM) who conducted research into medical error, medical student organizations like the American Medical Students Association (AMSA) and Dr. Sidney Wolfe, a health research leader at Public Citizen are just a few that do not support caps on non-economic losses.\textsuperscript{37} They question whether malpractice premiums are the health care problem that needs immediate intervention. The IOM report in 2000 estimated that 44,000-98,000 people died per year due to preventable medical errors and most of these did not even make it into the court systems.\textsuperscript{40} Public Citizen, AMSA and the IOM
share in the vision that elimination of preventable medical errors should be at the forefront of the debate.

Lawyers

Because of the focus among legislators concerning non-economic damages and its role in malpractice premiums, lawyers are also key stakeholders because of the direct economic threat to their profession combined with perceived blame for a problem many are not willing to accept. Similar to physicians, the issue is not the same for all lawyers; the focus is on the lawyers who try malpractice cases also known as “trial lawyers”. The phrase “trial lawyer” has been used with a negative connotation to evoke images of greed and frivolous lawsuits.

Insurance Companies

Being the owners of the medical malpractice policies, insurance companies have a vested interest in this issue and have been lobbying for their cause. The main goal of a for-profit company is to maximize profits and minimize losses. Insurance companies are no different from any other for-profit business. Representing their positions are two highly effective lobbying forces, the American Association of Health Plans (AAHP) and the Health Insurance Association of America (HIAA). The HIAA even has the distinction of making Fortune’s list of top 25 lobbying associations of America. The view of insurance companies are similar to the beliefs held by the Bush Administration as well as the American Medical
Association. In short, they believe capping jury awards will ultimately bring down medical insurance premiums. These conclusions are based largely on data from the reforms in California in the 1990’s, which will be discussed further in a later section of this analysis.

Patients

The most vulnerable stakeholders in this debate are patients. Consumer protection groups like Public Citizen have been at the forefront of the debate on behalf of patient’s rights. However, patients themselves don’t have an organized voice nor do they have the lobbying power or dollars presented by the insurance companies or the medical associations. Consumer groups that have more of a lobbying force like the America Association of Retired Persons (AARP) or Common Cause have not specifically addressed the issue of medical malpractice.37,38

Current Political Environment

Understanding the current political environment is critical when addressing possible solutions for health care issues. A solution can be the best solution if the benefits outweigh the harms to all those involved. However, if there is no support for it among the people or by the legislators who must develop it, the solution is useless. There are many ways to analyze political environments. This paper will focus on current activity by national legislators on the issue of medical malpractice as well as the salience of the issue among the public and government officials.
National Activity concerning Medical Malpractice

The President discussed medical malpractice reform in his State of the Union speech in January 2003 but it was not mentioned in the January 2004 speech. He stated within the 2003 address that “to improve our health care, we must address one of the prime causes of higher cost...many parts of America are losing fine doctors...I urge the Congress to pass medical liability reform.”

Following this call by the President, the House leadership introduced bill H.R. 5, “Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act of 2003” in February 2003. The core of this legislation was to limit or cap non-economic damage awards from medical liability lawsuits to 250,000 dollars. A cap is simply a ceiling placed on the dollar amount that can be awarded by a jury or judge in specific cases irregardless of the evidence presented. Non-economic damages are injuries that are hard to quantify such as infertility, disfigurement, pain and suffering, loss of a limb, permanent disability. A bill similar to H.R. 5 was passed in the House in 2002 but was defeated in the Senate because of uncertainty surrounding the actual usefulness of the bill for addressing the problem of high malpractice premiums. To gather more facts and establish a more informed opinion on the issue, the Senate Health Committee hearing was held on February 11, 2003.
After the hearing, there continued to be legislative activity surrounding this issue. On March 13, 2003, the House passed HR 5 with a few modifications. The vote was split along party lines with the Democrats voting no and the Republicans voting yes. After the vote in the House, Senate Majority Leader Dr. Bill Frisk expected talks to begin in the Senate in early April/May with bipartisan support. However, this plan was foiled when Sen. Dianne Feinstein (D-CA) removed her support of a compromise bill that would have capped non-economic losses to 500,000 dollars and a cloture vote was called on July 9, 2003 which stopped debate and defeated the bill at a vote of 49-48. The issue has not been on the House or Senate agenda since that time.

**Salience**

Salience is a measure of how pertinent a particular issue is among a chosen population. It is important to identify the salience of medical malpractice to fully appreciate the current political environment. However, measuring salience objectively can be difficult. In this analysis, salience will be a relative measure based on public opinion polls, news media coverage and the length of time it was discussed among the 2004 Presidential candidates. These measures will show that medical malpractice issues had high salience in the early part of 2003 but its salience began to fade and has not recovered in 2004.
News Media

The salience of an issue can be judged on how often it appears in the news media. A search of the Lexis Nexis Academic Universe general news database in major newspaper sources from January 1, 2003 to August 1, 2003 for medical malpractice recovered 630 articles. During this time, medical malpractice reform was second only to the War in Iraq, which had more than 1,000 articles. In contrast, a search for Medicare reform retrieved 208 articles. The news coverage was increased during this time because of the activity on Capitol Hill, the President’s State of the Union address in 2003, an increase in physician advocacy and the high profile case involving Duke University Hospital.

In January 2003, physicians sponsored “strikes” in West Virginia (WV) to increase attention to the medical malpractice issue. Some surgeons in Wheeling, WV stopped all elective surgeries for two weeks but were available if emergent procedures were required. In part as a result of their action, a new medical malpractice reform law passed in the West Virginia legislature, limiting non-economic losses to $250,000. Physicians in Pennsylvania staged a similar demonstration the first week in May 2003. It was entitled Code Blue week and physicians were encouraged by the Pennsylvania Medical Society to close their practices that week and cancel elective surgeries. It is unclear how many
physicians participated but there were no reports of significant declines in available medical care during this time.

During this time, Duke University Medical Center was under intense scrutiny because of a major medical error that caused the death of a little girl named Jesica Santillan. She received an incompatible heart and lung transplant. The mistake was discovered and she had a re-transplant only to die soon thereafter of severe brain swelling. This incident as well as the case of John McCormack, a Massachusetts man who lost his 13 month old daughter because of a medical error, gives more weight to a solution that would entail decreased preventable medical errors.

However, by the end of 2003 and the beginning of 2004 the news coverage had declined. A search of Lexis Nexis Academic Universe general news after August 1st, 2003 to February 1st, 2004 recovered only 266 articles concerning medical malpractice. The War in Iraq was still a highly salient issue during this time with over 1,000 articles retrieved. Using news coverage as a marker for salience, it appears that medical malpractice had been a highly salient issue in the media during the beginning of 2003 but has become a much less salient issue in the year 2004.
Public Opinion and Salience

Media salience is often correlated to public salience. However, "public opinion" polls are conducted to gauge the importance of issues to the American people. Several research groups question a sampling of Americans at various times about various subjects. The data from three opinion polls collected in January 2003, April 2003, and December 2003 are summarized in the following tables.

Table 1: Summary of Findings in Gallup Poll January 2003

<table>
<thead>
<tr>
<th>How closely have you been following the issue of medical malpractice?</th>
<th>17% very closely</th>
<th>41% somewhat closely</th>
<th>26% not too closely</th>
<th>16% not at all</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do you think patients bring (blank) lawsuits against doctors?</td>
<td>57% too many</td>
<td>23% right amount</td>
<td>13% too few</td>
<td>7% no opinion</td>
</tr>
<tr>
<td>How important is it?</td>
<td>18% crisis</td>
<td>56% major problem</td>
<td>22% minor problem</td>
<td>2% not a problem</td>
</tr>
<tr>
<td>Would you oppose or favor limits for awards of emotional pain and suffering?</td>
<td>72% favor</td>
<td>25% oppose</td>
<td>3% no opinion</td>
<td></td>
</tr>
<tr>
<td>Would you oppose or favor a limit on the amount that patients can be awarded as punishment to doctors for negligence or carelessness?</td>
<td>64% favor</td>
<td>31% oppose</td>
<td>5% no opinion</td>
<td></td>
</tr>
</tbody>
</table>
Table 2: Health Confidence Survey April 2003

<table>
<thead>
<tr>
<th>Question</th>
<th>69% yes</th>
<th>25% no</th>
<th>6% don’t know</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do you think there should be a limit to damage awards for medical injuries?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do you think the amount doctors pay in medical malpractice insurance makes it difficult for them to stay in business?</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 3: Summary of Health News Index Poll April 2003

<table>
<thead>
<tr>
<th>Question</th>
<th>53% very important</th>
<th>30% somewhat important</th>
<th>8% not too important</th>
<th>6% not at all important</th>
<th>3% don’t know</th>
</tr>
</thead>
<tbody>
<tr>
<td>How important is lowering the cost of medical malpractice insurance for physicians?</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Which issues are very important?</td>
<td>27% prescriptions for the elderly</td>
<td>27% increasing medical coverage</td>
<td>18% making Medicare financially sound</td>
<td>11% lowering cost of medical malpractice</td>
<td>8% helping states with Medicaid</td>
</tr>
<tr>
<td>How closely have you been following the issue of medical malpractice</td>
<td>17% very closely</td>
<td>26% fairly closely</td>
<td>22% not too closely</td>
<td>34% not at all closely</td>
<td>1% don’t know</td>
</tr>
</tbody>
</table>
Table 4: Summary of Health Poll Report December 2003

<table>
<thead>
<tr>
<th>How important is lowering the cost of medical malpractice insurance?</th>
<th>49% very important</th>
<th>34% somewhat important</th>
<th>6% not too important</th>
<th>6% not at all important</th>
<th>4% don’t know</th>
</tr>
</thead>
<tbody>
<tr>
<td>Which issue is very important?</td>
<td>24% lowering cost of health insurance</td>
<td>19% increasing number of people with health insurance</td>
<td>15% lowering cost of prescription drugs</td>
<td>13% helping families with long term care expenses</td>
<td>5% lowering the cost of medical malpractice insurance</td>
</tr>
</tbody>
</table>

The trends to these data sets are similar to data collected from the news media and from the activity of the legislators. It appears that among the “public” medical malpractice was a more salient issue at the beginning of 2003 and than at the end of 2003. This fact is most telling when comparing the Health Index Poll in April 2003 and the Health Report in December 2003. In April, 11% of the people polled thought that medical malpractice was a very important issue but by December only 5% of the people polled thought that it was a very important issue.

It is important to also look at this data in context. First, the public are only a sample of about 1000 people. Although the surveyors do their best to get a representative sample of Americans, it is still a weakness to public opinion polls. Also, it is unclear whether opinions changed because there was less news coverage or whether there was less news...
coverage because of the lack of interest in the subject. Even with these weaknesses, the trend of the data still supports that interest in the issue of medical malpractice decreased during the year 2003.

**Presidential Election 2004**

Many important issues come to the forefront during election seasons, especially during a Presidential election. The candidates for President make national news coverage, and the issues that are most important to the public become clear because it becomes the focus of their campaign.

The issues that have been at the front of this election are national security including the war in Iraq, job creation, current national debt and health care insurance. The reform of medical malpractice has not been at the cornerstone of current debate. However, the focus may change now that the Democratic Primary race has come down to Sen. John Edwards (D-NC) and Sen. John Kerry (D-MA). Senator Edwards was a “trial” lawyer before becoming U.S. Senator of North Carolina. His political opponents could attempt to highlight the issue of medical malpractice in order to damage his image and campaign for President. This tactic may have lasting effects on the Democratic Party if Americans are lead to believe that the Party sides too closely with lawyers and not with the wishes of patients and their doctors.
The previous “frontrunner” in the Democratic race, Dr. Howard Dean, had stated that he wanted reforms that identified unjust lawsuits without hindering compensation for patients who are injured. He also opposed the capping legislation. However, these opinions were not the cornerstone of his campaign and medical malpractice issues were not key to the debate among the other candidates. In this way, medical malpractice was a low salience issue in terms of the presidential election.

Summary of Salience

Overall, the issue of medical malpractice reform was an important issue in the United States in the year of 2003. However, the salience of the issue among the public and among national legislative leaders changed over the course of the year. It was a highly salient issue at the beginning of the year with high amounts of news media coverage and legislative activity. By the end of 2003 and the beginning of 2004, the issue was of lower salience among the public and legislators alike.

Evaluation of Possible Solutions

In this analysis, possible solutions will be evaluated on three criteria. The first criteria will be the ability of the solution to reduce medical malpractice premiums. The second criteria will evaluate the political plausibility of the solution in the current political environment as analyzed above and finally each solution will be evaluated on the qualitative cost and benefit to each of the stakeholders.
Solution 1: Do Nothing

In the last couple of years, malpractice premiums have been increasing. As Graph 1 shows, insurance premiums appear to increase and decrease by a cyclical pattern.

Graph 1: Reproduction of the Rise and Fall of the Insurance Premium Following the Rise and Fall of the Economy

No evidence shows that this recent upturn will be any different than previous changes. Therefore, we would expect malpractice premiums to continue to follow the same cyclical pattern. Doing nothing could be an effective solution if those involved were able to wait for the natural pattern of insurance premiums.

In terms of political plausibility, strong lobbying forces had made it a priority issue, leading to legislation introductions in over twenty states as well as Congress. Therefore, doing nothing did not appear politically viable. While the issue was of high salience, legislators appeared to be active on the issue even if the solution had not proven to lower malpractice.
In terms of the key stakeholders, doing nothing could be beneficial to lawyers, insurance companies, and physicians. However, the lack of focus on medical errors would be detrimental to the welfare of patients in this situation. As stated earlier, the cyclical nature of this issue ensures that premiums will most likely go down and the media attention will go away. The insurance companies will have the most benefit without any intervention because they could continue to raise premiums to overcome any lost. The lawyers involved would also benefit if the issue were tabled because it would most likely decrease the attack on their profession.

Patients have the most to lose if nothing is done during this time of increased attention to medical malpractice. A study by the Institutes of Medicine in 2000 showed that 44,000 to 98,000 Americans die each year to preventable medical errors in a hospital setting and that medical errors cost 17 to 29 billion dollars. This value is three times more than what might be saved in capping non-economic losses. For patients, improving safety would be of much more benefit than passing any legislation that would reduce malpractice premiums for physicians. However, the center of the malpractice debate isn’t on safety, even though, several organizations are trying to shed light on this issue.

**Solution 2: Capping Damages in Medical Liability Cases**

This solution is currently the preferred solution by the Bush Administration, medical associations and insurance companies. This
solution would entail limiting non-economic damages in medical injury cases, which in turn would decrease medical malpractice premiums. However, it is unclear whether this solution would be effective because there is evidence that jury awards are not the reason insurance premiums are going up.

In October 2002, the Americans for Insurance Reform (AIR), which represents 100 consumer groups in America, completed a full analysis of medical malpractice insurance with the help of J. Robert Hunter, the former Texas Insurance Commissioner and Federal Insurance Administrator. In the study, they compiled the amount insurance companies paid in jury awards and other settlements from 1965-2001 and compared those changes to the amount of premiums that the insurers were charging doctors over the same time frame. The review found that the amount of jury awards and settlements paid out since 1965 by insurance companies has followed medical inflation and it has been virtually a flat increase since the 1980's. Their second major finding was that insurance premiums changed similar to the state of the economy, not by the amount of jury awards. The data is summarized in Graphs 1 and 2 reproduced from the analysis by the AIR.
Graph 2: Reproduction of Raise in Insurance Premiums and the Steady Change in Jury Award Pay Outs

![Graph 2: Reproduction of Raise in Insurance Premiums and the Steady Change in Jury Award Pay Outs]

PER DOCTOR PREMIUM AND LOSSES

- DPW per doctor 2001
- Paid loss per doctor 2001

YEAR

Sources:

The HEALTH Act (HR 5) introduced in February 2003 had bipartisan support but the final vote was completely along party lines. Diane Feinstein (D-CA) was the only Democrat to support non-economic caps but she changed her position in March 2003. In a surprising move, the Democrats in the Senate were able to hold a cloture vote and dismiss the legislation passed in the House. With the decrease in the salience of the issue among political leaders and the public in 2004, the issue most likely will not be voted on again in the near future.

If this legislation had passed, it would have been of some benefit to insurances companies but would have been little to no benefit to doctors, lawyers or patients. As the data has shown, there was no guarantee that insurance premiums would be lowered for physicians once the caps were
The major cost to lawyers would have been the decline in recoverable fees for service. The legislation also supported the idea that lawyers are to blame for the current situation which contributes to the negative image of the law profession in our society.

If the legislation had passed, the biggest cost to patients would have been the lack of avenues to seek retribution in medical mistakes that don’t directly affect economic losses. This event would benefit insurance companies because of the decrease in liability payouts.

**Solution 3: Regulation of Malpractice Insurance Rates**

The regulation of malpractice insurance rates was done in California in 1988. The legislation would entail rolling back causality and property insurers rates to an earlier timeframe, freezing these rates for one year, request prior approval from malpractice insurers before any changes in premiums could occur, and tightening the anti-trust exemptions for insurance companies. When these changes were enacted in California in 1988, it was shown to be highly effective in reducing medical malpractice premiums. Graphs 3 and 4 illustrate the stable nature of California premiums as compared to national averages after the introduction of Proposition 130, which regulated the insurance companies. These graphs also show how insurance premiums did not decline in the wake of the Medical Injury Compensation Reform Act.
(MICRA), which capped non-economic damage awards but only after insurance regulation was implemented.

**Graph 3: Medical Malpractice Premiums**

CA v. US 1975-2001

**Graph 4: Total Premiums Earned**

California v. Rate of Inflation (1976-2001)
Extrapolating from this example, it would appear that regulation of insurance companies would be effective in reducing malpractice premiums for physicians. However, this solution has no current political backing.

The lobbying abilities of the insurance companies as well as the medical associations were focused on the injury compensation reform. The White House was also focused on this solution but recent focus has been placed on the War on Terror.

While the regulation of insurance premiums could benefit physicians and patients, and have some benefit to lawyers, it would entail a large cost to insurance companies. If the regulation of insurance premiums was passed, insurance companies would have to immediately decrease their premium charges. Insurance companies would also have to file papers before making any premium changes. These regulations may seem harsh, but the insurance companies in California were still able to make a profit even after such changes.

Physicians would notice immediate relief with the rollback of malpractice premiums. They would also be able to feel secure that malpractice premiums would not sharply increase in the future. Patients would not risk losing their physician to office closure or relocation nor lose the option of receiving reimbursement if a grave medical mistake occurred. Lawyers in this situation would not be directly affected by the
change. Their image might improve if it was made clear by the legislation that lack of insurance regulation was the primary problem instead of “frivolous” lawsuits.

**Solution 4: Decreasing the Number of Medical Errors**

As stated above, the Institutes of Medicine showed that 44,000 to 98,000 Americans die each year to preventable medical errors and the cost that could be saved by targeting medical errors would be 17 to 29 billion dollars. It is estimated that the savings made by capping non-economic losses would only be a third of this value. However, it is unclear if this reduction will directly effect malpractice premiums.

The groups focused on decreasing the number of medical errors do not have the same level of money or political clout as the companies who are lobbying for caps in non-economic losses. Legislators also are no longer focused on this issue. Therefore, the political plausibility of the solution is low.

The group most likely to benefit from this solution would be the patients. Reducing medical errors would improve the quality of medical care received by all Americans because people chances of adverse events would be decreased. The reduction of medical errors could also potentially decrease the cost of health care in this country, which could lead to a decrease in insurance premiums. However, it is unclear if these savings would benefit physicians or insurance companies. The savings
would not directly affect the malpractice system because most of these errors are never brought to litigation. For lawyers, this solution could potentially decrease some of their earning potential and be a cost to their business.

**Summary of Evaluation**

Table 5 is a summation of the four solutions identified in this analysis. From this table, the only solution that has the ability to directly decrease medical malpractice premiums would be solution 3, the regulation of the insurance industry. However, this solution would be politically unachievable in the current political environment. The majority of the House and Senate and the current Presidential leadership are in favor of legislation that would cap non-economic damages and they have been adverse to amendments that regulate insurance rates.

**Conclusions**

Medical malpractice insurance reform is an important health care issue because physicians, a central part to health care delivery in this country, are feeling the crunch and many of them have increased their advocacy around this issue. The high salience around this issue in the beginning of 2003 made it an important issue for the American public and had been a part of the domestic agenda of the current Bush Administration.
Table 5: Summation of the Evaluation of Cost Benefit Among the Four Solutions

<table>
<thead>
<tr>
<th>Solution 1: Do Nothing</th>
<th>Solution 2: Caps on Damages</th>
<th>Solution 3: Regulation of Insurance Companies</th>
<th>Solution 4: Reducing Medical Errors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Effectiveness</td>
<td>Cyclic pattern premium probably will decrease over time</td>
<td>Data shows unlikely to reduce premiums</td>
<td>If California model holds, will decrease premiums</td>
</tr>
<tr>
<td>Political Viability</td>
<td>Not politically viable; issue too salient; legislation already introduced in state and federal government</td>
<td>Senate blocked the legislation not currently viable.</td>
<td>Not politically viable. Strong lobbying forces against it. Not supported by the White House</td>
</tr>
<tr>
<td>Qualitative: Cost/Benefit</td>
<td>Lawyers benefit</td>
<td>Cost</td>
<td>No change</td>
</tr>
<tr>
<td></td>
<td>Insurance benefit</td>
<td>Benefit</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Comp. Cost</td>
<td>Cost</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Patients No Change</td>
<td>Cost</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Physicians</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

However, the salience of the issue has faded and it is unlikely that legislative changes will be made in the near future. The most effective solution to reducing the amount of malpractice premiums paid by physicians and improving the quality of care given to patients would probably be a combination of non-economic caps, regulation of insurance
companies and reduction of medical errors. Unfortunately, this option is
not politically desirable and would be almost impossible to pass in the
current political environment.
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