

## A Case Study: California Insurance Regulation, Not Caps, Successfully Lowered Malpractice Rates

SANTA MONICA, Calif., Jan. 5 -- President Bush's claim today that a medical malpractice damage cap lowered doctors' premiums in California is erroneous, said the non-profit, nonpartisan Foundation for Taxpayer and Consumer Rights (FTCR). Malpractice premiums rose 450 percent after a damage cap was imposed in California in 1975 and did not fall until a 1988 voter-approved initiative, Proposition 103, began regulating insurance company premiums, according to data from the National Association of Insurance Commissioners.

An FTCR study comparing the effect of the 1975 California caps law mentioned today by President Bush with Prop 103's impact on malpractice premiums is available online at

<http://www.consumerwatchdog.org/healthcare/rp/rp003103.pdf>.

"California's experience proves that insurance companies don't lower rates when we limit patients' rights. The medical malpractice caps proposed by President

Bush won't lower doctors' premiums," said Carmen Balber, consumer advocate for FTCR. "Strong insurance regulation, not the arbitrary caps on patients' rights proposed by Bush, brought doctors' insurance rates down in California."

Proposition 103 required medical malpractice insurers to directly refund more than \$135 million to doctors. The reform law has also been used by FTCR to successfully challenge insurance company rate hike proposals, saving California doctors more than \$50 million in the past two years alone.

"If President Bush was serious about lowering physicians' insurance rates, he would talk about reforming the insurance companies that are charging skyrocketing premiums," said Balber.

President Bush's claim that "junk" lawsuits are driving up health care costs is also false, said FTCR, as medical malpractice premiums account for just .62 percent of total medical costs, according to insurance industry data provided to the Na-

tional Association of Insurance Commissioners.

### Insurance industry profits up 54 percent



Data released last month by Weiss Ratings reveal that insurance industry profits were up 54 percent in the first six months of 2004. The data follow a trend of increasing insurance industry profitability, even as malpractice insurers claim rising costs are forcing them to raise doctors' premiums.

"Insurance industry greed continues to drive increasing physician premiums, and only California-style regulation of insurance rates and profits can stop insurer profiteering at doctors' expense," said Balber.

### IN THE KNOW:

California lawyer Daniel Y. Zohar, best known as the attorney who saved doctors nearly \$40 million by utilizing Prop. 103 to convince the California Department of Insurance to strike down illegal medical malpractice premium hikes, provides insight to President Bush's proposed damage caps:

"Anyone who thinks that arbitrary damage caps will reduce doctors' premiums should take a long, hard look at California, where 10 years after the caps passed, rates had still gone up 400 percent. It was only when we started regulating insurance companies in 1988 (under Prop. 103), that rates started coming under control and, even then, they must still be monitored to this day.

"Has anyone ever asked just how much money the insurance giants -- the ones who have been raising doctors' premiums year after year -- have been making the last five years?"

"Perhaps someday President Bush will find the courage to address frivolous defenses made by insurance carriers on behalf of bad doctors. Doctors who went to unaccredited, foreign medical schools and then come here and destroy people's lives. Doctors who, in spite of repeated instances of malpractice, continue to keep their licenses and treat unsuspecting patients. Why is it so easy to find out if your auto mechanic is honest, and so hard to find out if your doctor has ever hurt his patients?"

"The irony is that good doctors and good lawyers want the same thing: to protect people from bad doctors. Working together, we can demand that bad doctors take full responsibility for their actions, and that bad lawyers not be allowed to bring merit-less cases against good doctors. Yet caps fail on both counts. Instead, we must look to the true source of sky-rocketing insurance premiums: the profit-hungry board rooms of Big Insurance.

"Arbitrary caps hurt the most vulnerable victims -- brain damaged babies, housewives, the elderly -- I am all too familiar with the expressions of utter disbelief on the faces of grieving families, who have been devastated by preventable medical mistakes, when they're first told the life of their child or wife or parent was worth no more than \$250,000."