



**Statement by the American Academy of Actuaries’
Medical Malpractice Subcommittee on the Report by the
Center for Justice & Democracy,
Falling Claims and Rising Premiums
*in the Medical Malpractice Insurance Industry***

Introduction

The American Academy of Actuaries (Academy) is a non-profit, professional membership organization representing actuaries in all areas of practice in the U.S. The Academy’s mission is to assist in the formulation of public policy by providing independent and objective information analysis and education, and to support the establishment, maintenance and enforcement high standards of actuarial qualification, practice, and conduct. Founded in 1965, the Academy has 15,000 members and is headquartered in Washington, D.C.

The Academy’s Medical Malpractice Subcommittee seeks to provide independent and objective information, analysis and education on medical malpractice issues to legislators, regulators, the actuarial profession and the public, both nationally and internationally, through the use of comment letters, public testimony and educational seminars.

**Statement on the Center for Justice & Democracy’s report
*Falling Claims and Rising Premiums in the Medical Malpractice Insurance Industry***

Consistent with the theme underlying the subcommittee’s April 2005 comment letter titled *Important Considerations When Analyzing Medical Malpractice Insurance Closed-Claim Databases*, this subcommittee focuses on providing actuaries and non-actuaries with the foundation necessary to evaluate the critical factors relating to medical liability, to assist in their research, and to form well-reasoned conclusions.

Historically, the subcommittee has not commented on individual medical liability studies. However, the July 2005 study by Jay Angoff commissioned by the Center for Justice & Democracy entitled *Falling Claims and Rising Premiums in the Medical Malpractice Insurance Industry* is an exception because of the public attention it has received, the apparent credibility ascribed to its conclusions and, in our view, the poor quality of the analysis.

The report forms conclusions regarding insurance company financial results and rates, areas in which actuaries have special expertise. In consideration of these circumstances, the American Academy of Actuaries and, in particular, the Medical Malpractice Subcommittee, believes comments warning readers and potential users of this report are necessary.

In our opinion, the report is incomplete, actuarially unsound, and misleading. The report uses improper data comparisons, incomplete information and appears to misuse certain insurance industry benchmarks. Besides reviewing the report, we have reviewed studies commenting on the report and concur with various points made in these studies. Key among these are that the report: contains misleading and inappropriate comparisons of financial data presented in insurance company Annual Financial Statements; does not include all costs associated with providing the insurance product (e.g., costs of defending claims, administrative expenses, etc.); does not adjust for growth in insureds over time; misrepresents and misuses Risk Based Capital (RBC); in addition to other mischaracterizations and misinterpretations.

After the September 28, 2005 press release entitled *Statement by the Center for Justice & Democracy in Response to the Physician Insurance Association of America Critique of "Falling Claims and Rising Premiums in the Medical Malpractice Insurance Industry,"* in which the Center for Justice & Democracy stated, "we stand by our Report and our numbers, which insurers themselves filed, under oath, with state insurance departments." It is obvious to us that the report continues to receive unwarranted reliance and credibility.

We believe that the report's data and methodology do not support its conclusions.

In order to constructively move the medical liability debate forward, appropriate data comparisons and complete information must be used so that the public and legislators can properly evaluate the issues. Before relying on the above report, we recommend that all interested parties seek advice from a qualified actuary. For state legislators and attorneys general, we recommend contacting the qualified actuaries in their state insurance departments.

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For further information on the Academy go to www.actuary.org, or call Chris Robichaux at 202-223-8196, Robichaux@actuary.org.

For a copy of the subcommittee's comment letter referenced above, *Important Considerations When Analyzing Medical Malpractice Insurance Closed-Claim Databases*, go to http://www.actuary.org/pdf/casualty/medmal_042005.pdf