



NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

August 10, 2005

**EXECUTIVE
HEADQUARTERS**

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The Honorable Richard Blumenthal
Attorney General
State of Connecticut
P.O. Box 120
Hartford, Connecticut 06141-0120

RE: Center for Justice & Democracy
Medical Malpractice Study

Dear Attorney General Blumenthal:

Thank you for your letter of July 7, 2005.

**GOVERNMENT
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The nation's insurance commissioners are acutely aware of problems that many states are experiencing in medical liability markets. To address that concern, the NAIC conducted an extensive study of the medical liability markets that was published in 2004. In addition, the Government Accountability Office conducted an investigation of medical liability markets that was published in 2003. The NAIC study findings were consistent with that published by the GAO. The NAIC study found that that "underwriting losses were the major factor influencing the rate increases experienced by physicians and other health care providers over the past several years." The GAO study stated, "Multiple factors, including falling investment income and rising reinsurance costs, have contributed to recent increases in premium rates in the sample states. However, GAO found that losses on medical malpractice claims—which make up the largest part of insurers' costs—appear to be the primary driver of rate increases in the long run."

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Since these findings are inconsistent with those contained in the study published by the Center for Justice & Democracy, we believe that further evaluation of the new study is warranted before deciding whether health care providers, lawyers or insurers are the cause of increasing medical liability premiums. Our preliminary review indicates that the study has significant limitations. It contains data for only 15 insurers, does not evaluate the changing markets for medical liability insurance that are characterized by doctor owned mutual insurers, risk retention groups and other alternative risk transfer mechanisms, does not evaluate the changing legal environment and mischaracterizes the NAIC's Risk-Based Capital Formula. Although the NAIC does not generally undertake an evaluation of every study that is issued, since you seem to place some reliance on its findings, the NAIC plans to ask that its Casualty Actuarial Task Force review the Center for Justice & Democracy study. We will encourage the task force to report its findings promptly and will advise you of them as soon as they are available.

**WORLD
WIDE WEB**

www.naic.org

Thank you for your interest in this topic. We recognize that medical liability rates contribute to the cost of health insurance and the ability for consumers to access quality health care at reasonable costs. State insurance regulators will continue our commitment to affordable and available insurance issued in compliance with state rate regulatory standards that require rates not be excessive, inadequate nor unfairly discriminatory.

Sincerely,

Diane Koken
President
National Association of Insurance Commissioners