



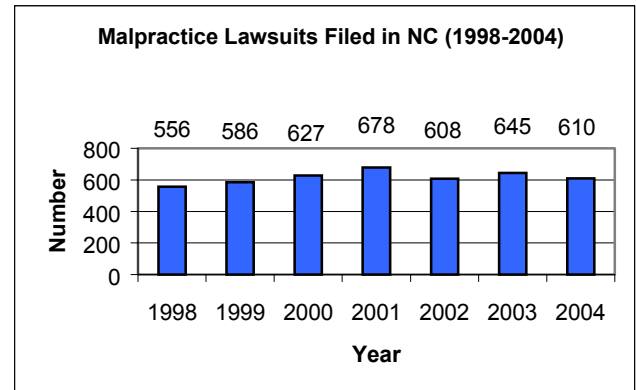
## A "Litigation Explosion" In North Carolina? Hardly. ~ Four Facts About The Civil Justice System ~

The insurance industry claims that a "litigation explosion" has forced up malpractice insurance premiums to a point that many doctors find burdensome. Curbing injured patients' rights, insurers say, is the only way to ensure statewide access to affordable health care.

This diagnosis is wrong. Consider these four facts:

### There Is No "Litigation Explosion" In North Carolina

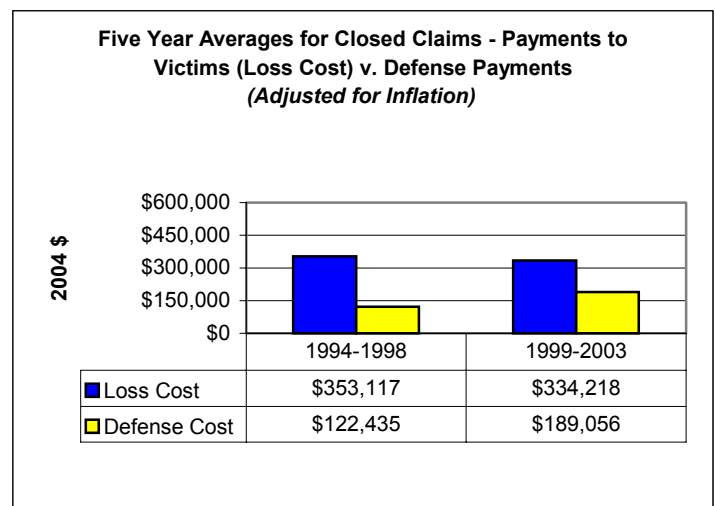
- 616 medical malpractice lawsuits, on average, have been filed yearly since 1998.
- North Carolinians sue doctors less than half as often as residents of other states, according to the National Center for State Courts.
  - *NC's lawsuit rate per 100,000 residents was almost 50 percent less than the rate in Florida, a southern state that caps non-economic damages.*



- Just 3 percent of medical malpractice cases filed in NC between 1998 and 2004 have reached a jury.
- 3.8 lawsuits were filed per 100 doctors in NC in 2003, virtually the same rate as in 1998.

### Higher Defense Spending, Not Jury Awards, Has Increased The Cost of Claims

- The average amount paid to victims of malpractice by Medical Mutual, NC's largest malpractice insurer, declined 5.4 percent between the periods 1994-1998 and 1999-2003.
  - *The average loss cost per closed claim fell from \$353,117 to \$334,218.*
- During the same period, Medical Mutual's average defense spending per closed claim rose by 54.4 percent.
  - *The average defense cost per closed claim went from \$122,439 to \$189,056.*



- Defense spending in the average claim closed by Medical Mutual accounted for 36 percent of the total payment in the period 1999-2003, up from 26 percent in the period 1994-1998.

## Caps On Non-Economic Damages Do Not Work

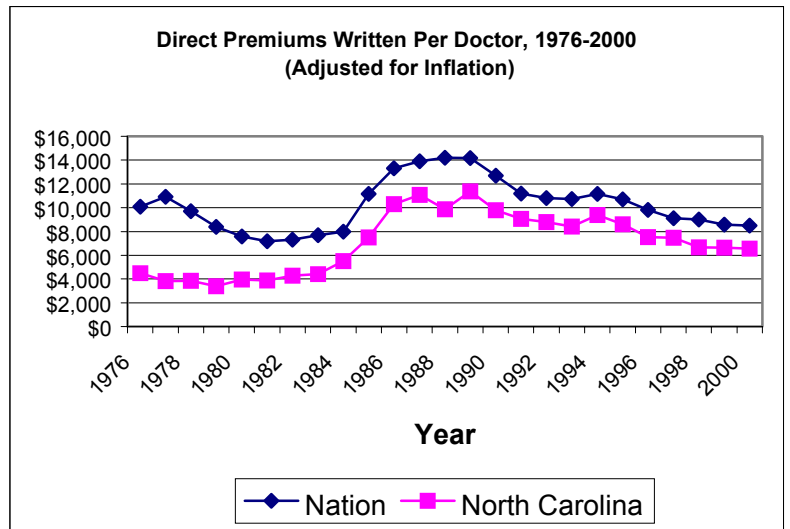
- An insurance cycle determined by underwriting practices and investment returns drives the cost of malpractice insurance.

- *Insurance premiums in NC mirrored national trends over the period 1976 to 2000.*

- The insurance industry has stated that caps will not result in lower premiums.

- *Medical Mutual's CEO has told a NC Senate committee that, if the legislature passed all proposed liability reform measures, the company might be able to reduce future premium increases by up to 5 percent.*

- *GE Medical Protective, one of the largest malpractice insurers in the nation and the fourth largest insurer in NC, told the Texas Department of Insurance that "Capping non-economic damages will show loss savings of 1.0%."*



## Tort Reform Hurts Ordinary Citizens

- Caps on non-economic damages for pain and suffering stops catastrophically injured people who have limited economic damages – children, retirees, and "stay-at-home" mothers – from being compensated for their injuries.

- Limiting contingency fees prevents plaintiffs with moderate damages and moderate means from having a day in court.

- NC already has strict rules to prevent frivolous lawsuits.

- *Rules 9(j) and 702 of the state code of civil procedure allow malpractice cases to proceed only if an outside expert reviews the case and agrees to testify for the plaintiff.*

*Alice Lloyd is typical of the North Carolinians who would be most hurt by a cap on non-economic damages. A blood infection that went untreated at a clinic and emergency room resulted in the amputation of both of Alice's legs and her left hand.*

*A former pre-kindergarten teacher, Alice is confined to a wheelchair for the rest of her life and now lives with her mother, who helps take care of Alice.*

*A cap on non-economic damages would prevent someone like Alice from receiving compensation for lifelong, disabling injuries.*