

The Project on Medical Liability in Pennsylvania
Funded by
The Pew Charitable Trusts

PENNSYLVANIA
MALPRACTICE STUDY
General Public Survey
Small Business Survey

Conducted by

Princeton Survey Research Associates, Inc.

Princeton Survey Research Associates

911 Commons Way
Princeton, New Jersey 08540
(609) 924-9204

1211 Connecticut Avenue NW
Washington, D.C. 20036
(202) 293-4710

PENNSYLVANIA MALPRACTICE SURVEY

This study was conducted by Princeton Survey Research Associates (PSRA) for The Project on Medical Liability in Pennsylvania, a two-year research initiative funded by The Pew Charitable Trusts. Two separate Pennsylvania surveys were conducted for this study: General Public and Small Business Owners.

Survey Methodology for General Public Survey

A total of 1,103 Pennsylvania adults, 18 years and older were interviewed by telephone from June 17 to July 8, 2002. The sample is representative of Pennsylvania residents in Philadelphia, Pittsburgh, and the rest of the state. The overall margin of sampling error for this survey is plus or minus 4 percentage points.

Survey Methodology for Small Business Survey

A representative sample of 600 heads of Pennsylvania small businesses and professional offices with 4 to 99 employees were interviewed by telephone from June 11 to July 9, 2002. The sample includes for-profit companies and non-profit organizations. The overall margin of sampling error for this survey is plus or minus 4 percentage points.

PENNSYLVANIA MALPRACTICE SURVEY 10 MAJOR FINDINGS

1) Owner/managers of Pennsylvania small businesses are concerned that rising malpractice insurance costs will adversely affect their ability to provide quality health coverage for their employees. Sixty-one percent of the heads of Pennsylvania small businesses that now offer health coverage to their employees are very concerned they will have to drop coverage as an employee benefit if malpractice insurance costs continue to rise, and another 27% are somewhat concerned. Close to six in 10 (56%) of those in charge of small firms that offer health coverage are very concerned that they will have to switch to a health plan offering less coverage as a result of rising malpractice insurance costs. Another 30% are somewhat concerned.

Small business heads tend to believe that health care in Pennsylvania is getting worse, and to attribute that decline – at least in part -- to more malpractice lawsuits and higher malpractice insurance costs. Fifty-five percent of small business heads think health care in Pennsylvania is getting worse. Small business leaders who see worsening conditions are most likely to identify higher health care costs generally and the medical malpractice system as the main causes.

2) Malpractice issues are also a major concern of the Pennsylvania general public, who associate rising malpractice insurance rates for doctors with higher health care costs for consumers. Sixty-nine percent of Pennsylvania adults say they are very concerned that their family's health care or health insurance costs will go up as a result of the increasing cost of malpractice insurance, and another 21% are somewhat concerned. Sixty percent of Pennsylvania adults say they are very concerned that their family won't be able to afford health insurance or necessary health care as a result of rising malpractice insurance costs; another twenty-one percent are somewhat concerned.

As seen for small business leaders, the public's concerns about rising health care costs and malpractice issues are linked to their belief that Pennsylvania's health care system is getting worse. More than four in 10 (41%) adults statewide feel that health care in Pennsylvania has declined in recent years. When these people are asked *why* they think there has been a decline, they most often point the finger at the malpractice system and medical inflation in general.

DEMOGRAPHIC BREAKOUT: As many Medicare beneficiaries (aged 65+) as younger people (aged 18-64) are very concerned about the impact of rising malpractice insurance rates on their own health care costs (71% vs. 69%). Concern that rising malpractice insurance costs will make necessary health care unaffordable is especially high in Pennsylvania households where someone is receiving regular medical treatment for a chronic illness or disability. Two-thirds (67%) of those with a chronically ill household member are very concerned that higher malpractice insurance rates for doctors might prevent their family from affording needed health coverage or care, compared with 54% in households where no one is chronically ill or receiving regular treatment.

3) The potential for negative impact on consumer access to health care is a second major area of public concern about rising malpractice insurance costs in Pennsylvania. Four in 10 (44%) Pennsylvania adults say they are very concerned they will have trouble finding a doctor when they need one as a result of the rising costs of malpractice insurance. About half (49%) of all adults statewide say they are very concerned they will have a more difficult time finding specialized care. Concern about access is also widespread among heads of the state’s small businesses: 43% are very concerned that higher malpractice insurance rates for doctors will make it more difficult for their employees to get specialized care when they need it. Close to two-thirds (64%) of the public and over two-thirds (70%) of small business leaders think that “many” or “some” Pennsylvania doctors “have stopped providing certain medical services or refused to treat patients with serious illnesses” because of the increasing costs of malpractice insurance.

DEMOGRAPHIC BREAKOUT: Those in households where someone has been hospitalized in the past year are especially likely to see a link between higher malpractice insurance costs and reduced access to certain kinds of care. Seventy-one percent of those with a recent hospitalization, compared with 61% of those without such a recent experience with the health care system, believe that “many” or “some” Pennsylvania doctors have stopped providing certain services or refused to treat patients with serious illnesses because of rising malpractice insurance costs.

4) Despite their high level of concern about rising malpractice insurance costs, Pennsylvanians are not well informed about what state government did last spring to address the problem. Less than half (43%) of small business leaders, and only about a third (31%) of the public say they have heard or read anything about the laws passed last spring by the state legislature to address the problem of increasing malpractice insurance costs. Among those who say they are aware of the legislature’s action, opinion is mixed – 46% think the laws passed last spring had at least some positive effect, while 39% think they had no impact at all. Only 3% of the public, and not a single business leader, believe the legislature’s action went a long way toward solving the malpractice insurance problem.

DEMOGRAPHIC BREAKOUT: Among those aware of the laws passed last spring, 57% of those in households with a health care worker think they made no difference, compared with 34% of those in households without a health care worker.

REGIONAL BREAKOUT: Awareness of the legislature’s action is especially low in the Pittsburgh area, where only about one in three (34%) small business leaders and one in five (21%) adults in the public at large say they are aware of the new laws.

5) Pennsylvanians see frivolous malpractice lawsuits and overly generous awards by juries in malpractice cases as most responsible for driving up malpractice insurance costs. Roughly two-thirds of Pennsylvania adults identify each of the following as “major reasons” for the rising costs of malpractice insurance:

- Patients and their lawyers filing frivolous lawsuits against doctors for financial gain (71%)
- Juries awarding excessive amounts of money to patients in malpractice cases (65%)

Lack of action by state government to reduce malpractice lawsuits is rated a major factor by roughly half (51%) the public. Forty-three percent of Pennsylvania adults cite greater public awareness and disclosure of medical errors as a major factor responsible for the rise in malpractice rates. Forty percent think “mismanagement and mistakes” by private insurance companies are a major factor for the increase in rates. And thirty-seven percent say an increase in medical errors is a major factor responsible for rising malpractice costs.

Pennsylvania small business leaders are even stronger than the public in their beliefs that excessive litigation and jury awards are most responsible for rising malpractice insurance rates. Owner/managers of small businesses are more likely than the public at large to identify frivolous lawsuits (83% vs. 71%) and overly generous awards by juries (81% vs. 65%) as major factors. In contrast, small business heads are significantly *less* likely than the public to think that mismanagement by insurance companies (27% vs. 40%) and greater frequency of medical errors by doctors (25% vs. 37%) are major reasons.

DEMOGRAPHIC BREAKOUT: People who report that someone in their household was hurt by a medical error are more likely to identify frivolous lawsuits (74%) and excessive jury awards (62%) as major reasons than they are to think more medical errors by doctors is a major reason (45%).

6) Pennsylvanians' reports about their own experiences with medical errors and malpractice litigation are at odds with their impressions of how likely their fellow citizens are to sue if hurt by a medical error. The majority (55%) of Keystone State residents are under the impression that half or more of those who are injured or harmed as a result of medical errors sue their health care provider for malpractice. When asked about their own experiences, however, Pennsylvanians suggest that the incidence of litigation is much lower. Overall, 22% of adults interviewed say someone in their household has suffered an injury or harm resulting from a medical error, yet only 3% say someone in their household has actually filed a malpractice lawsuit. That translates into about one in seven people affected who sue – not one in two. In total, twenty-four percent of Pennsylvanians know someone who has brought a malpractice suit. This includes 3% who identify the person as a household member and 21% who say it is someone outside their household.

DEMOGRAPHIC BREAKOUT: Those more closely connected to the health care system are more likely to say they know someone who has brought a malpractice suit. One-third (32%) of those with a household member employed in health care and one-third (31%) of those who say a household member was recently hospitalized know someone who sued for malpractice. Minorities are no more likely than whites to say someone in their household has been a victim of a medical error (17% vs. 23%), but are more likely to report that a household member has sued for malpractice (9% vs. 2%).

7) Despite their criticisms of malpractice litigation, most Pennsylvanians can see themselves suing a health care provider to recover expenses or help others if hurt by a medical error. Most people, however, reject the idea of suing as a punitive measure. When asked how they might respond if they suffered an injury they suspected was the result of a doctor's medical error, only a minority (38%) of Pennsylvanians say they might sue for malpractice in order to punish the doctor for the harm done to them. Eight in 10 (80%), however, might sue for malpractice to cover expenses that resulted from the doctor's mistake, such as the cost of additional health care or time lost from work. And seven in 10 (70%) might sue to help others by making sure similar mistakes won't happen again.

DEMOGRAPHIC BREAKOUT: Certain subgroups are more likely to say they might be prompted to file a malpractice suit to punish a doctor who committed a medical error that led to personal injury. These include minorities (57%), those in households where someone has been the victim of a medical error (44%), young adults aged 18-29 (44%), and those without any college training (41%).

8) Pennsylvanians think the state's courts are clogged with too many frivolous lawsuits. A majority (59%) of Pennsylvania adults believe that half or more of malpractice lawsuits are brought without a legitimate reason. A third (32%) think that less than half of lawsuits are brought without a legitimate reason. Very few Pennsylvanians (11%) think that those who sue without a legitimate reason are motivated by need; that is, because they are sick or injured and lack money to pay for health care or living expenses. Instead, most people feel that illegitimate malpractice suits are motivated by a desire for personal gain. Fifty-three percent think that those suing without good cause are just trying to profit from the situation; another 28% think that those suing are being influenced by a lawyer.

Small business leaders share the public's view on this issue. A majority (59%) of small business leaders also think that half or more of those who sue don't have a good reason. Like the broader public, most heads of small businesses (55%) see a desire to profit from the situation as the main reason people sue without a legitimate reason.

REGIONAL BREAKOUT: Those who live outside the state's two major population centers are more likely to think that most medical malpractice lawsuits are brought without legitimate reason. Sixty-five percent of those living outside of the Philadelphia and Pittsburgh regions, compared with 55% of those in Philadelphia and 53% of those in Pittsburgh, think that half or more than half of those who sue don't have a good reason.

9) Pennsylvanians see large awards by juries to plaintiffs in malpractice cases as doing more harm than good. When presented with arguments for and against large jury awards, 62% of all adults say these awards are a bad thing because they increase everyone's health care costs, while only 22% say they are a good thing because the threat of financial consequences makes doctors do a better job and avoid medical errors. Opinion among heads of small businesses is even more one-sided (77% bad thing vs. 10% good thing).

DEMOGRAPHIC BREAKOUT: Among all population subgroups statewide, large awards are viewed more negatively than positively, but the division of opinion is closer among the following subgroups:

- Pennsylvanians in households where someone has been the victim of a medical error (52% bad thing/31% good thing, +21 points vs. 65% bad thing/20% good thing, + 45 points among those in households where no one has been the victim of a medical error)
- Pennsylvanians in households where someone is employed in health care (55% bad thing/32% good thing, +22 points vs. 64% bad thing/20% good thing, + 44 points among those in households where no one is employed in health care)
- Pennsylvanians in households where someone has been recently hospitalized (56% bad thing/30% good thing, +26 points vs. 65% bad thing/20% good thing, + 45 points among those in households where no one has been recently hospitalized)
- Minorities (47% bad thing/38% good thing, +9 points vs. 65% bad thing/20% good thing, + 45 points among whites)

10) Most Pennsylvanians have been exposed to information about medical malpractice during the past year, and most recall seeing or hearing advertising in the media about malpractice insurance costs, malpractice lawsuits, or a “malpractice crisis” in the state. Over half (55%) of adults statewide say they have seen, heard or read at least something about “the cost of malpractice insurance that Pennsylvania doctors pay to protect themselves against losses resulting from malpractice lawsuits” during the past year. This includes over a third (36%) of the state’s adult population who report having seen, heard or read “a lot” about the topic. Owner/managers of Pennsylvania small businesses are more likely (49%) than the statewide public as a whole to have been exposed to “a lot” of information during the past year about malpractice.

Fifty-seven percent of all adults and 68% of small business owner/managers say they were exposed to some form of advertising about malpractice over the past year. Pennsylvanians are most likely to remember TV ads (47% of the general public/55% of small business heads) and newspaper ads (36% of the general public/44% of small business heads). Pennsylvanians say that media advertising has played a bigger role in shaping their opinions about malpractice issues than any other source except news coverage in general. Sixty percent of adults statewide say “advertisements on TV, radio, billboards, in newspapers, or other media” have been an important source of information, lower than the 75% who identify “general news coverage” as important, but higher than the numbers who say “talking with friends and family” (54%) and “your doctor, hospital, or some other health care professional” (39%) have been important.

DEMOGRAPHIC BREAKOUT: Advertising is even influential among Pennsylvanians likely to have regular contact with doctors and other health care professionals. Those with a health care worker in their household are more likely to report ads as an important source for information about malpractice issues than they are to say their “doctor, hospital, or some other health care professional” is important.

REGIONAL BREAKOUT: The issue of malpractice insurance rates has been most visible in the Philadelphia area. Close to half (45%) of those living in Philadelphia and surrounding counties say they have heard or read “a lot” about how much doctors have to pay for malpractice insurance coverage during the past year. Only about a quarter (24%) of those in the Pittsburgh area and a third (34%) of those in other parts of the state report seeing or hearing a lot about the issue. Philadelphia-based small business heads are significantly more likely than those in other regions to report recent exposure to information about malpractice insurance costs. Two-thirds (69%) of Philadelphia small business heads report having seen, heard or read a lot about the issue in the past year, compared with fewer than half of their counterparts in the Pittsburgh area (41%) and in other parts of the state (43%). Recall of malpractice-related ads is highest in greater Philadelphia, where 63% of the public and 80% of small business heads were exposed to some form of advertising. In contrast, ad recall in the Pittsburgh area is slightly below statewide averages.

APPENDIX A: **Pennsylvania and Health Care**

Pennsylvania, the sixth most populous state, has had the slowest population growth of any major state since the 1940s. Those who grow up in Pennsylvania are as likely to leave as stay, while relatively few out-of-staters move in.¹ The result is an aging population. The state ranks second only to Florida in the percent of adults aged 65 and older. According to U.S. Census figures for the year 2000, 20.5% of Pennsylvania adults are over 65 compared with 16.7% of the total U.S. adult population.

An aging population means an expanded role for health care in the state. According to our survey, over four in 10 (42%) Pennsylvania households include someone who is now receiving regular medical treatment for a chronic health problem. A recent national PSRA survey showed the incidence of all U.S. households with a chronically ill person to be significantly lower (35%). More patients mean more health care jobs. Our survey finds that close to one in five (19%) Pennsylvania households includes someone who is employed as a doctor, nurse, hospital worker, or in some other health care-related job. This compares with just 13% of all U.S. households with health care workers, based on another recent PSRA survey.

Almost nine in 10 (88%) of Pennsylvania adults report having some form of health insurance. The larger number of adults in the state who are eligible for Medicare appear to boost the percent insured above the 85% level seen for all U.S. adults in national surveys. Just over a quarter (27%) of Pennsylvania adults say someone in their household has been hospitalized during the past year, similar to the national average of 26% recorded in a 1999 PSRA survey.

¹ Michael Barone, *The Almanac of American Politics 2002*, p.1288