

KAISER PUBLIC OPINION SPOTLIGHT

Kaiser Public Opinion Spotlights provide in-depth analysis of public opinion on a variety of health care and health policy topics. Each Spotlight uses public opinion data from Kaiser surveys and other sources to examine current views and trends.

Updated: December 2005

Public Opinion on the Medical Malpractice Debate

The public is aware of the issue of medical malpractice, and generally supportive of measures to reform the medical malpractice system, although few people say malpractice reform is a top priority for Washington. The public does see medical malpractice as an important factor behind rising health care costs, and while the policy debate has focused on the size of jury awards as the main problem in the system, the public views the number of lawsuits as an even more important factor.

Importance the Problem

Americans recognizes medical malpractice as an issue that needs to be addressed, but few place malpractice reform high on their list of health care concerns for the government to deal with. In August 2005, while more than half (54%) said reforming the medical malpractice system was a "very" important issue for government to deal with, fewer than one in ten (6%) chose this as the *most* important priority when asked to choose between a list of health issues before the President and Congress.

The public does, however, view medical malpractice as an important factor behind rising health care costs. Nearly six in ten adults (58%) said that the number of malpractice lawsuits is a "very" important factor in causing rising health care costs, and nearly two in ten (19%) said it was the *most* important factor when forced to choose among several. Only "high profits made by drug companies" was named as the *most* important factor by a larger share of the public than malpractice lawsuits.

Factors Behind Rising Malpractice Insurance Costs

When asked to choose the most important reason behind rising malpractice insurance costs, it's clear that the public sees the number of lawsuits as a bigger problem than the size of jury awards.

Nearly one-third (32%) of the public say that the most important factor behind rising malpractice insurance rates is "too many lawyers filing unwarranted lawsuits". Smaller shares say "high profits of malpractice insurers" (15%), "too many patients making unwarranted claims against doctors" (14%), and "too many doctors making mistakes" (11%) are the main factors. While most of the policy debate has focused on putting caps on jury awards, just 9% cite "too many juries making excessive awards" as the most important reason malpractice costs are rising.

Problems in the System

Furthermore, about six in ten (61%) say patients bring "too many" malpractice lawsuits against doctors, while about two in ten (18%) say patients bring the "right amount" of lawsuits against doctors. About half (49%) of the public says juries award too much money in malpractice lawsuits and three in ten (30%) say jury award amounts are "about right".

Support for Limiting Malpractice Lawsuits

There is substantial support for policies that would limit the amount of jury awards in malpractice cases, and limit the ability to file malpractice lawsuits. More than six in ten (63%) say they would favor limits on the amount of money patients can be awarded for emotional pain and suffering. Among the 63% who support a cap on damages for pain and suffering, half favor a cap of \$500,000 or a million dollars, which is higher than the \$250,000 most often proposed in the policy arena.

Even more support a law that would prohibit individuals from filing malpractice lawsuit unless an independent medical specialist reviewed the claim and deemed it reasonable – 72% of the public say they would favor such a law.

Most of the public believes that both damage caps and requiring independent medical review would help to reduce the overall cost of health care in the U.S. either “a lot” or “some”.

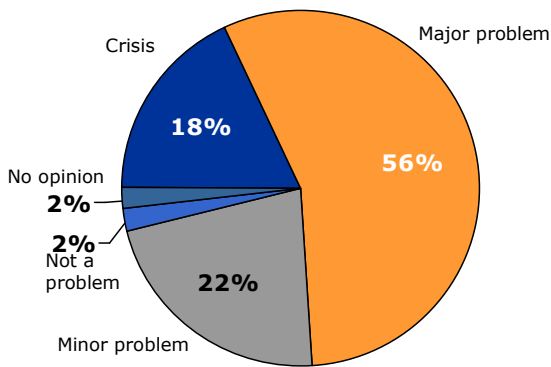
Importance of the Problem

In January 2003, three-quarters (74%) of Americans said that the issue of medical malpractice insurance was at least a "major problem", including nearly two in ten (18%) who said the issue was a "crisis". More than half (56%) said it was a "major problem", and another two in ten (22%) said it was a "minor problem". Only two percent said that the issue of medical malpractice insurance was not a problem at all in health care today.

In August 2005, while more than half (54%) said reforming the medical malpractice system was a "very" important issue for government to deal with (data not shown), fewer than one in ten (6%) chose this as the *most* important priority when asked to choose between a list of health issues before the President and Congress.

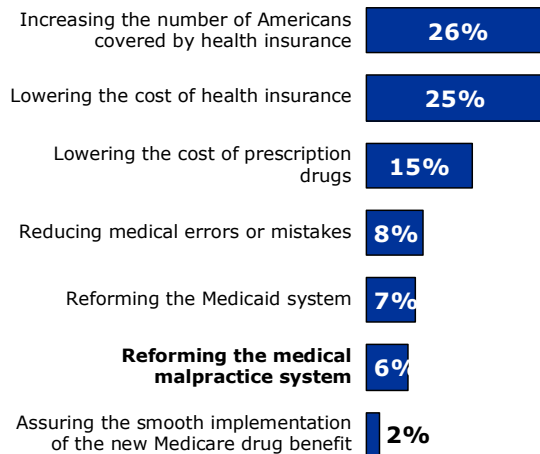
Importance of the Problem

Which of these statements best describes the issue of medical malpractice insurance in healthcare today--it is a crisis, it is a major problem, it is a minor problem, or it is not a problem at all?



Source: Gallup Organization *Gallup Poll* (conducted Jan. 20 - Jan. 22, 2003)

Which of the following health care issues do you think is most important for the President and Congress to deal with?



Source: Kaiser Health Poll Report Survey (conducted August 4- August 8, 2005)

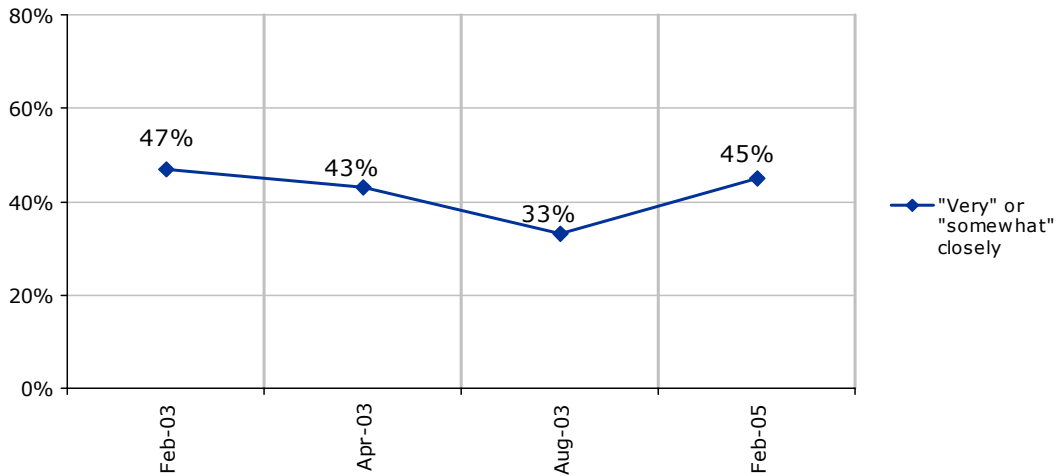
Attention to the Malpractice Debate

Since 2003, between three and five in ten Americans say they follow news stories about the debate over limiting jury awards in medical malpractice cases either "very" or "somewhat" closely.

In January 2003, a slightly larger share – nearly six in ten (58%) - said they followed the more general debate over "the issue of medical malpractice" (data not shown).

Attention to the Malpractice Debate

How closely did you follow this story? Discussions in Washington about limits on jury awards in medical malpractice lawsuits...*



*Note: question wording varies slightly over time

Source: Kaiser Family Foundation *Health Poll Report* surveys

Malpractice and Other Factors Driving Rising Health Care Costs

The public tends to associate malpractice lawsuits with the high cost of health care. Nearly six in ten adults (58%) said that the number of malpractice lawsuits is a “very” important factor in causing rising health care costs, and almost two in ten (19%) said it was the *most* important factor when forced to choose among several factors.

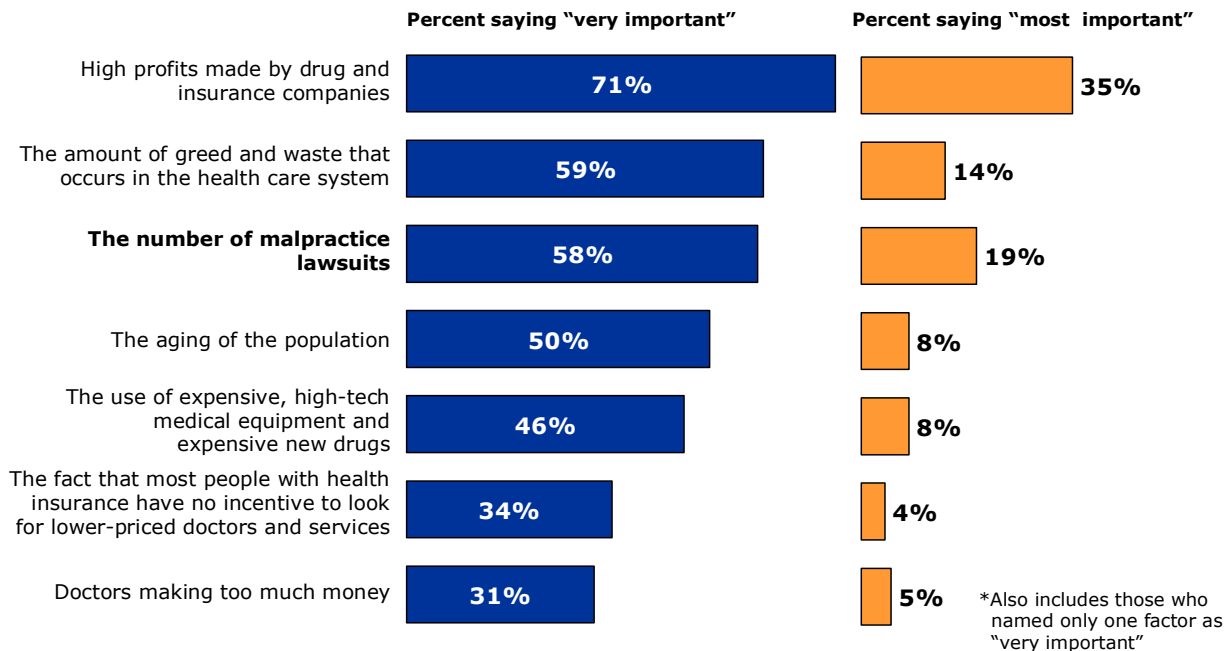
Majorities also said that other factors are very important to rising health care costs, but only “high profits made by drug companies” was named as the *most* important factor by a larger share of the public than malpractice lawsuits.

Malpractice and Other Factors Driving Rising Health Care Costs

A number of factors have been suggested as possible reasons for rising health care costs. For each factor I mention, please tell me whether you feel it is very important, somewhat important, not very important, or not important at all in causing higher health care costs.

When forced to choose...

Of those factors you said are very important, which one do you think is the *MOST* important reason health care costs are rising?*



Source: USA Today/Kaiser/Harvard *Health Care Costs Survey* (conducted Apr 25 – Jun 9, 2005)

Factors Driving Rising Medical Malpractice Insurance Costs

When asked about factors behind rising malpractice insurance costs, 60% of Americans say "lawyers filing too many unwarranted lawsuits" is a "very" important reason for rising malpractice insurance costs, and about half say "patients making unwarranted claims against doctors" (53%) and "high profits made by insurance companies" (49%). About four in ten say the problem is "doctors making mistakes" (43%) or "juries making larger awards than are justified" (42%).

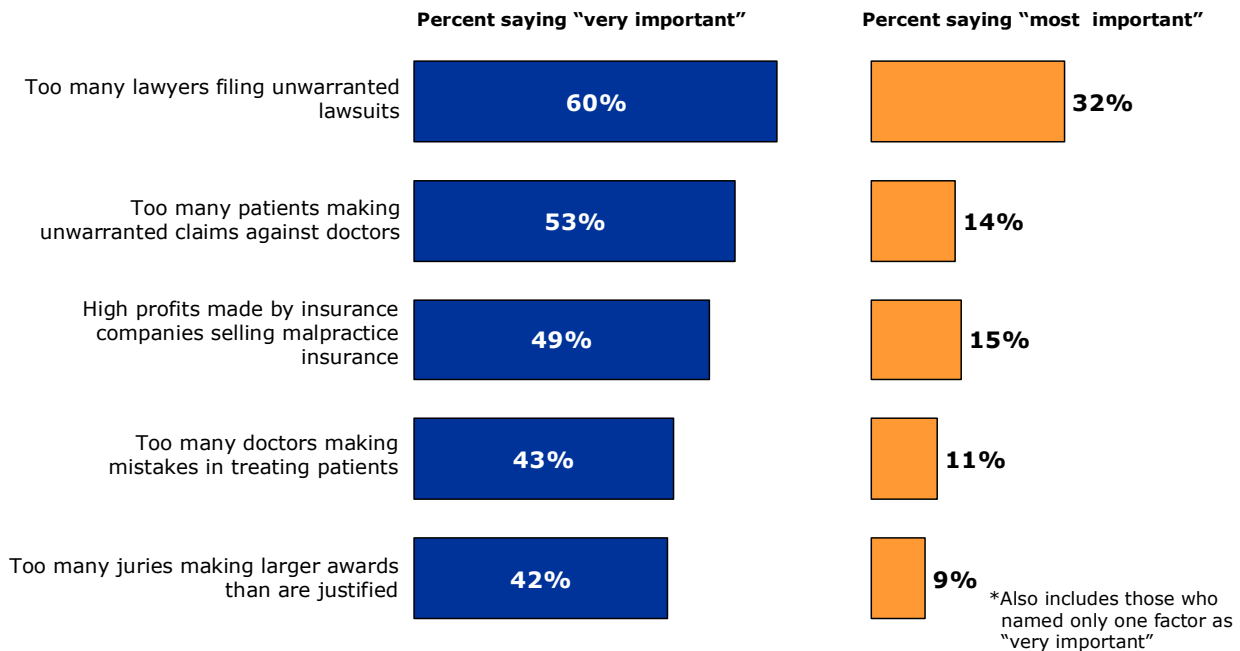
When asked to choose the MOST important reason behind rising malpractice insurance costs, it's clear that the public sees the number of lawsuits as a bigger problem than the size of jury awards. Nearly one-third (32%) say that the most important factor behind rising malpractice insurance rates is "lawyers filing unwarranted lawsuits". Smaller shares say "high profits of malpractice insurers" (15%), "patients making unwarranted claims against doctors" (14%), and "doctors making mistakes" (11%) are the most important factors. While most of the policy debate has focused on putting caps on jury awards, just 9% cite "juries making excessive awards" as the most important reason malpractice costs are rising.

Factors Driving Rising Medical Malpractice Insurance Costs

A number of factors have been suggested as possible reasons for increasing cost of medical malpractice insurance. For each factor I mention, please tell me whether you feel it is very important, somewhat important, not very important, or not important at all in causing higher malpractice insurance costs.

When forced to choose...

Of those factors you said are very important, which one do you think is the MOST important reason medical malpractice insurance costs are rising?*



Source: Kaiser/Harvard Health Care Agenda for the New Congress Survey (conducted Nov. 4-28, 2004)

Views on Malpractice Lawsuits

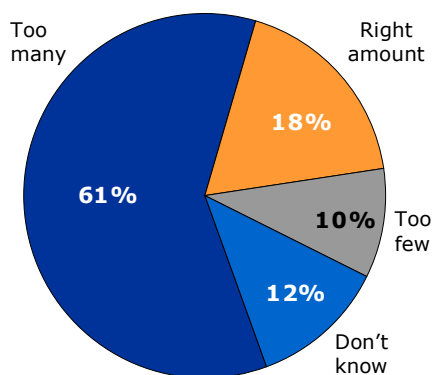
More than six in ten (61%) say patients bring “too many” malpractice lawsuits against doctors, while just one in ten (10%) say patients bring “too few”. About two in ten (18%) say patients bring the right amount of lawsuits against doctors.

About half (49%) of the public says juries award too much money in malpractice lawsuits. Three in ten (30%) say the amounts awarded are “about right” and just about one in ten (9%) say the awards should be higher.

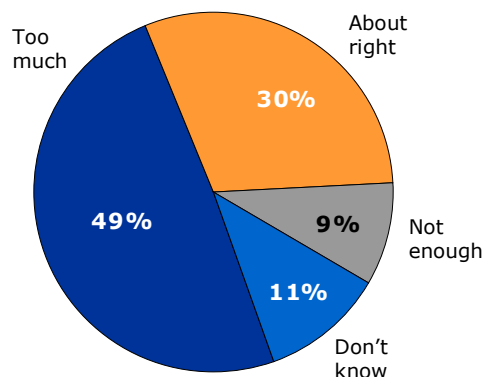
Again, from these results we see a slightly larger share of the public saying that patients bring too many lawsuits than say that juries award too much money.

Views on Malpractice Lawsuits

Do you think patients bring--too many, about the right amount, or too few--lawsuits against doctors?



Do you think the amount of money awarded to patients by juries in medical malpractice suits is usually too much, not enough or about right?



Source: Kaiser/Harvard *Health Care Agenda for the New Congress Survey* (conducted Nov. 4-28, 2004)

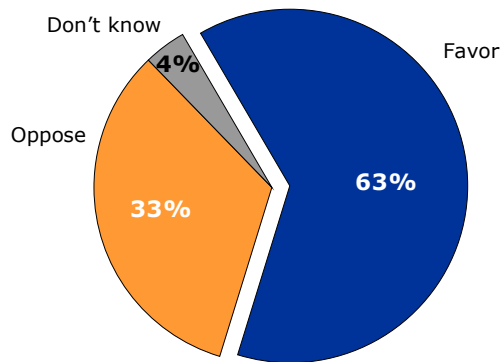
Support for Limiting Jury Awards

There has been ongoing debate in Congress about reducing the cost of malpractice insurance by limiting on the amount of money juries can award patients in malpractice lawsuits. More than six in ten (63%) say they would favor putting limits on the amount of money patients can be awarded for emotional pain and suffering, though one in three (33%) oppose limits on pain and suffering awards.

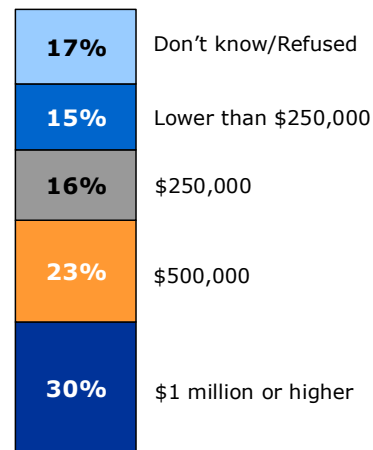
Among the 63% who support a cap on damages for pain and suffering, most favor a relatively high cap; 30% of this group favors a cap of \$1 million or higher, 23% favor a \$500,000 cap, 16% favor a \$250,000 cap, and 15% favor a cap of less than \$250,000.

Support for Limiting Jury Awards

Would you favor or oppose a new law that would put a limit on the amount of money that can be awarded to someone suing a doctor for malpractice for damages for pain and suffering?



Among the 63% who favor a limit on pain and suffering awards, percent who say awards for pain and suffering should be limited to...



Source: Kaiser/Harvard Health Care Agenda for the New Congress Survey (conducted Nov. 4-28, 2004)

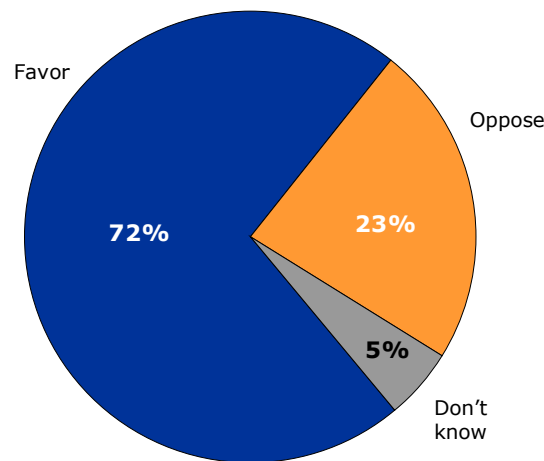
Support for Limits on Filing Lawsuits

Proposed legislation that would limit the ability to file lawsuits is even more popular than limiting jury awards.

A large majority of the public (72%) say they would favor a law that would prohibit individuals from filing malpractice lawsuits unless an independent medical specialist reviewed the claim and deemed it reasonable. However, nearly one-quarter (23%) who say they oppose such limits on filing malpractice lawsuits.

Support for Limits on Filing Lawsuits

Would you favor or oppose a new law that would prohibit individuals from filing medical malpractice lawsuits unless a qualified independent medical specialist reviewed the claim and thought it was reasonable?



Source: Kaiser/Harvard *Health Care Agenda for the New Congress Survey* (conducted Nov. 4-28, 2004)

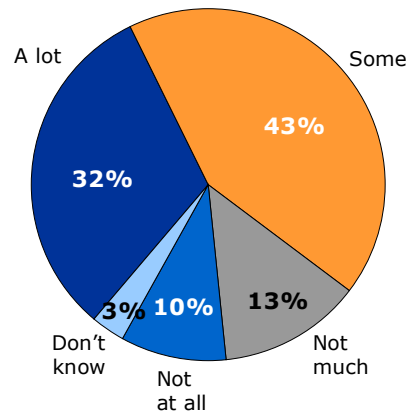
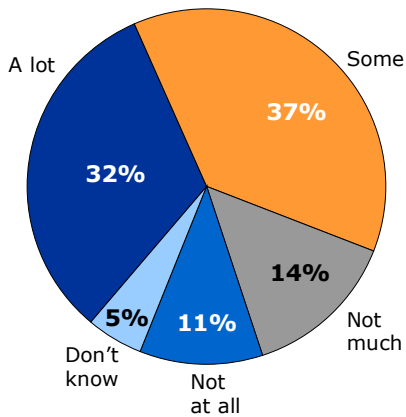
Perceived Effectiveness of Malpractice Reforms In Reducing Health Care Costs

Most of the public believes that both damage caps and requiring independent medical review would have at least some impact on the overall cost of health care in the United States. About seven in 10 say that a law limiting pain and suffering awards would help a lot (32%) or some (37%) in reducing the overall cost of health care, while a quarter (25%) say it would not help much or not at all. Similarly, three-quarters say that a law requiring independent medical review of claims would help a lot (32%) or some (43%) in lowering overall health costs, while about a quarter (23%) say it would not help much or not at all.

Perceived Effectiveness of Malpractice Reforms In Reducing Health Care Costs

If a law were passed that did limit the amount of money patients can receive for pain and suffering (in medical malpractice suits), how much do you think this would help in reducing the overall cost of health care in the U.S.?

If a law were passed that did prohibit individuals from filing medical malpractice lawsuits unless a qualified independent medical specialist reviewed the claim and thought it was reasonable, how much do you think this would help in reducing the overall cost of health care in the U.S.?



Source: Kaiser/Harvard *Health Care Agenda for the New Congress Survey* (conducted Nov. 4-28, 2004)