

## The costs of malpractice coverage and defensive medicine

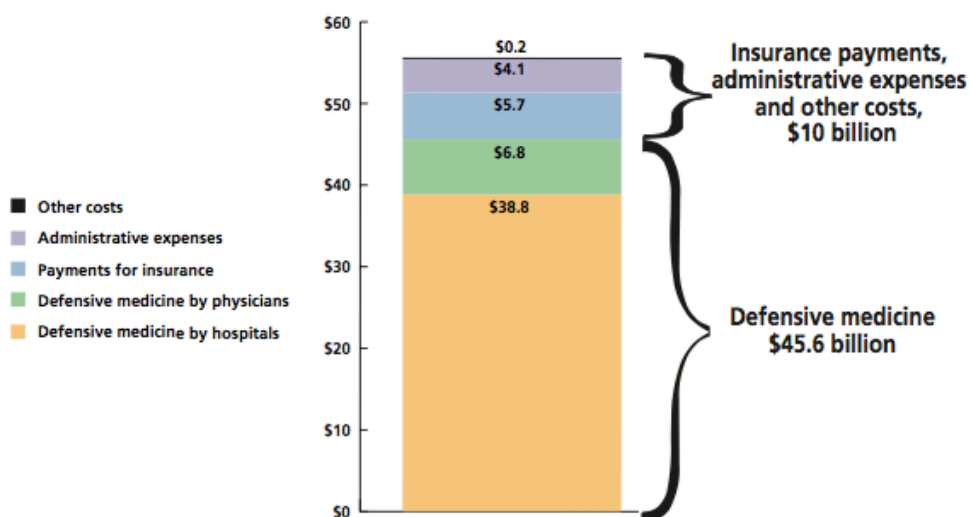
### Studies range from less than 2 percent to 11 percent of total health care spending

The costs of the medical liability system have been the subject of professional and academic inquiry for more than 40 years.<sup>2</sup> In the national debate over health care reform, concerns about reducing the rate of growth of health expenditures reignited interest in medical liability reforms and their potential to save money by reducing the practice of defensive medicine – clinicians’ intentional overuse of health services to reduce their liability risk.

Notwithstanding all of the papers written on the subject, rigorously researched estimates of the system’s costs related to medical malpractice are scarce. Research shows that the impact of medical malpractice coverage and defensive medicine is in a broad range from 2 percent<sup>3</sup> to 11 percent<sup>4</sup> of total health care spending.

Acknowledging that “rigorous estimates of the cost of the medical liability system are scarce,” the authors of one major study published in September 2010 put the price tag at \$55.6 billion in 2008 dollars, or 2.4 percent of total health care spending at the time. The components of the liability costs were split up as follows in the illustration below.<sup>5</sup>

**Estimated 2010 components of medical malpractice liability costs (billions of dollars)**



Source: Mello, MM, et. al. "National Costs of the Medical Liability System." Health Affairs, Vol. 29, No. 9, September 2010, pages 1-2. [http://health.burgess.house.gov/UploadedFiles/Malpractice-Health\\_Affairs.pdf](http://health.burgess.house.gov/UploadedFiles/Malpractice-Health_Affairs.pdf)

More than \$8 of every \$10 — \$45.6 billion — spent on medical malpractice liability costs was attributed to defensive medicine by providers who order unnecessary tests and procedures to protect themselves from malpractice claims.

While the 2010 study mentioned above focused on national costs overall, a study released in April 2012 explored the legal defense costs associated with resolving medical malpractice claims. The researchers examined the defense costs of more than 25,000 malpractice claims filed against more than 40,000 physicians. The authors noted that “defense costs constitute an important expense for insurers, and they affect physicians and patients by raising the costs of malpractice premiums and medical care, respectively.”<sup>6</sup>