



# georgia tort reform

## f a c t s   a n d   d a t a

### TORT REFORM IS NOT JUST A DOCTOR ISSUE!

Georgia's judicial climate and runaway jury verdicts are threatening access to quality medical care for all citizens, increasing the cost of accident & health insurance for all employers and employees, and discouraging businesses from locating here.

#### Excessive Litigation Stifles State Growth

The U.S. Chamber of Commerce in its April 4, 2003 State Liability Systems Ranking Study, ranked Georgia 39<sup>TH</sup> as a state with a fair and reasonable litigation climate.

#### Tort System Taxes Everyone

Tillinghast-Towers Perrin, a leading actuarial firm, reports that in 2002 the tort system cost each man, woman and child \$809 annually; in 1950, the U.S. judicial tort system annual cost was \$12 per citizen.

#### Defensive Medicine Drives Up Healthcare Costs

“Defensive medicine” is when physicians order extra tests or procedures to protect themselves from lawsuits rather than for medical reasons. The U.S. Department of Health and Human Services (March 3, 2003) and the Employment Policy Foundation (June 19, 2003) each report that “defensive medicine” adds up to \$97.5 billion to the cost of the nation's hospital and physician services each year.

#### Malpractice Litigation Increases Employers' and Employees' Costs

The Employment Policy Foundation report (June 19, 2003) on accident & health insurance costs concluded that uncapped medical malpractice litigation increased the annual cost to employers of providing health insurance to workers by up to \$353 per covered employee; and increased employees contribution to their employer-provided health insurance by up to \$109 per employee.

#### Uncapped Malpractice Litigation Increases the Number of Uninsured

The Employment Policy Foundation (June 19, 2003) found that uncapped medical malpractice litigation decreased by 2.7 million workers—and their families—from being protected by employer-provided accident and health insurance.

### BENEFITS OF TORT REFORM

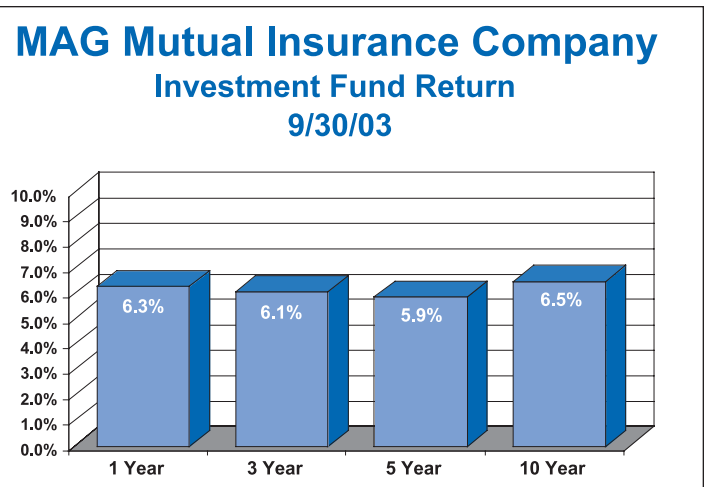
**Moderation** of losses will help **keep products and services affordable**

**Access** to affordable quality healthcare **will be preserved**

**Lower** liability and health insurance **premiums**

Increased **competition** among insurers **will benefit purchasers**

Personal injury lawyers argue that poor management at insurance companies is the cause of the crisis; that sky-high premiums are due to investment losses rather than excessive jury awards and settlements. First, malpractice insurers' investment portfolios have always made money. Second, **Georgia insurance regulations prohibit investment losses from being used in rate making.**

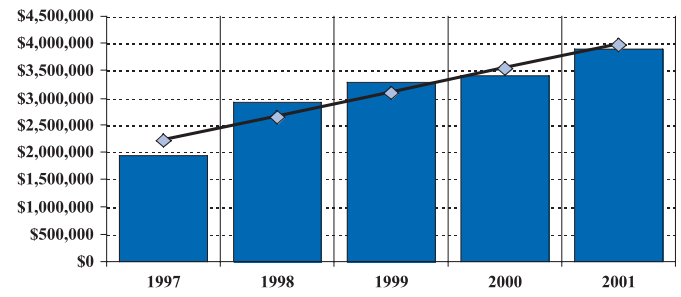


**IN ORDER TO CHANGE THE DIRECTION OF PREMIUMS, YOU MUST CHANGE THE TREND LINE OF LOSSES.**

### LOSS TRENDS DRIVE PREMIUMS

On average, medical malpractice claims take 3-5 years to resolve. **Actuaries trend past loss history to forecast how much premium must be collected today to pay claims which won't be resolved until 3-5 years in the future.**

### Average Jury Verdict For Plaintiff Medical Malpractice: United States 1997 - 2001



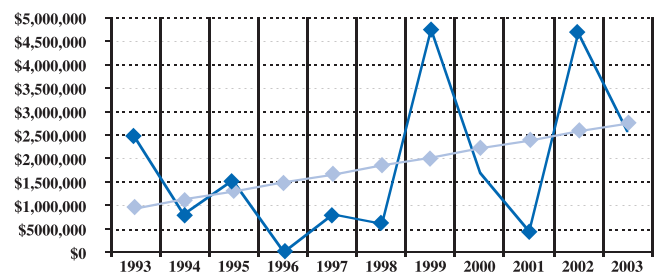
Loss Trends Drive Premiums

### THE LOSS TREND IN GEORGIA IS SEVERE

MAG Mutual Insurance Company was formed in Georgia in 1982 and is owned and directed by physicians. Its mission is to offer medical malpractice insurance to physician members at the **LOWEST** premium possible. One hundred percent (100%) of the premium paid by each physician goes solely to pay claims. The administration costs of the company are paid out of investment income.

### MAG Mutual Insurance Company Average Medical Malpractice Jury Verdict Georgia

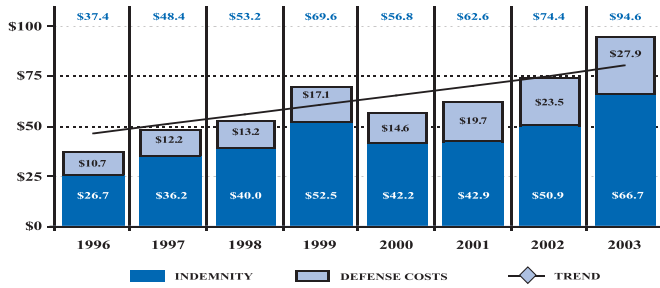
Because Georgia jury verdicts are uncapped, losses are volatile with extremely high "shock losses" occurring unpredictably. In 2002, while the average U.S. medical malpractice jury verdict for the plaintiff was about \$3,900,000, MAG Mutual's average adverse verdict in Georgia was \$4,650,000.



A few excessive jury verdicts raise the cost of all future settlements because personal injury lawyers demand the amount of the previous jury award—or more—to settle their claim.

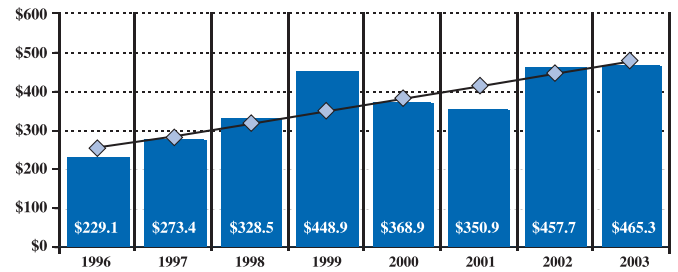
Loss Trends Drive Premiums

## MAG Mutual Insurance Company Total Paid Losses Medical Malpractice: Georgia (Millions)



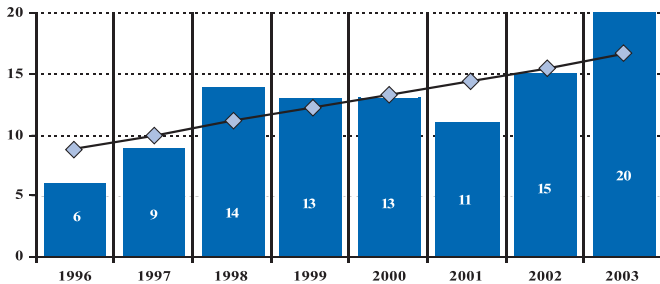
Loss Trends Drive Premiums

## MAG Mutual Insurance Company Average Payment To Plaintiff Medical Malpractice: Georgia (\$'000)



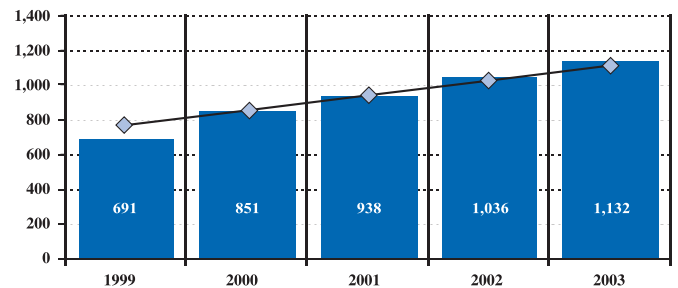
Loss Trends Drive Premiums

## MAG Mutual Insurance Company Paid Claims of \$1,000,000 or More Georgia



Loss Trends Drive Premiums

## MAG Mutual Insurance Company Number of Claims Opened Medical Malpractice: Georgia



Loss Trends Drive Premiums

MAG Mutual Insurance Company GEORGIA MEDICAL PROFESSIONAL LIABILITY RATES \$1 MILLION/\$3 MILLION LIMIT OF LIABILITY					
Specialty	2000	2001	2002	2003	Increase 2000 - 2003
Psychiatry	\$5,765	\$6,572	\$7,887	\$10,008	74%
Internal Medicine	\$7,124	\$8,121	\$9,745	\$12,367	74%
Family Practice	\$7,124	\$8,121	\$9,745	\$12,367	74%
Radiology	\$8,423	\$9,602	\$14,619	\$24,448	190%
Emer. Medicine	\$14,083	\$16,054	\$19,265	\$27,541	96%
General Surgery	\$24,223	\$27,615	\$33,138	\$42,053	74%
Anesthesiology	\$17,842	\$16,269	\$19,523	\$24,775	39%
Orthopedic Surgery	\$32,150	\$32,733	\$39,280	\$49,848	55%
OB/GYN	\$39,732	\$40,811	\$48,973	\$62,148	56%
Neurosurgery	\$46,441	\$52,943	\$63,532	\$80,624	74%

The crisis has led to insurance companies leaving the market and to hospitals and physicians re-evaluating whether they can remain in business. Of the 20 insurers in Georgia in 2001 with \$1 million or more in premiums, only three remain who accepted new physicians in 2003.

## TORT REFORM WORKS

### 2003 OB/GYN Premium Comparison

**\$1,000,000/\$3,000,000  
Limit of Insurance**

#### CITIES WHOSE STATES CAP AWARDS<sup>1</sup>

Denver . . . . .	\$34,868
Indianapolis . . . . .	\$37,999
Milwaukee . . . . .	\$30,304
Richmond . . . . .	\$43,071
San Francisco . . . . .	\$40,069

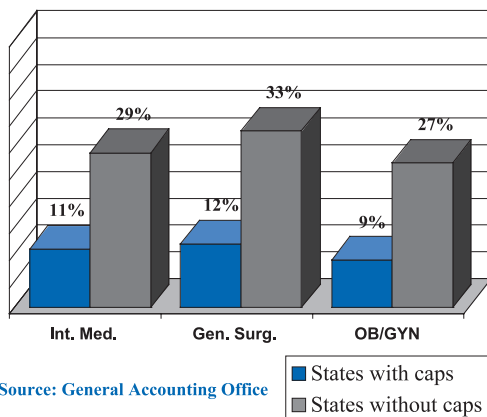
<sup>1</sup>28 states cap awards

#### CITIES WHOSE STATES DON'T CAP AWARDS

Atlanta . . . . .	\$62,148
Chicago . . . . .	\$139,696
Cleveland . . . . .	\$119,482
Miami <sup>2</sup> . . . . .	\$249,196
New York . . . . .	\$95,837

<sup>2</sup>Miami rate prior to cap effective 9/15/03

### Comparison of 2001-2002 Premium Increases States With and Without Caps



## RECOMMENDED TORT REFORM

### KEY INGREDIENTS TO TORT REFORM

#### 1. *CAP ON PAIN AND SUFFERING DAMAGES*

- No limit on medical expenses, wages, etc. but limit pain and suffering damages to \$250,000

#### 2. *FAIR COMPENSATION TO INJURED PARTY*

- Require increasing percentage of recovery to injured party based on size of award

#### 3. *ELIMINATE JOINT AND SEVERAL LIABILITY*

- Make each defendant liable only for his/her share of negligence

#### 4. *MANDATE COMPARATIVE NEGLIGENCE*

- Reduce any award by the plaintiff's own contribution to his/her alleged injury

#### 5. *AVOID VENUE SHOPPING*

- Require that cases be tried to conclusion in a county where at least one defendant resides

#### 6. *ESTABLISH EXPERT WITNESS QUALIFICATIONS*

- Require those that testify as an expert be licensed to practice, actively practice or teach in the same specialty or area as the defendant for at least three of the last five years