

# 'Flesh peddlers'

## Blame placed for malpractice suits

By Tim Richard  
staff writer

Medical malpractice insurance is skyrocketing in cost because Michigan physicians are being sued so heavily and often, a parade of witnesses told a Senate panel.

"Both the size and number of claims are growing at an unconscionable rate," Fredrick Minkow, Bloomfield Hills physician and president of the Oakland County Medical Society, told the Senate Judiciary Committee hearing in Pontiac.

An obstetrician pays \$40,000 for \$1 million of coverage, and cardiac and orthopedic specialists pay \$50,000, said Minkow, one of about 15 witnesses heard Tuesday.

"Doctors are taking early retirement, and many younger doctors are leaving the state," he said. "Doctors routinely consider every person who comes to an emergency room for the first time as a potential plaintiff in a lawsuit, creating 'an iron curtain of fear' between patient and physician."

EDWIN DOEHRING, Farmington osteopath and president of the 220-member Michigan Association of Osteopathic Physicians, said 89 percent of general practitioners have stepped or will step taking obstetric cases because of "the thirst for money through our court system."

Kevin Clinton, chief actuary for the state Insurance Bureau, said that in an atmosphere of lawsuits, where claims and jury awards are rising faster than inflation, "insurers are unable to reasonably price their product."

Clinton was warmly applauded by an audience packed with hundreds of physicians during a hearing of the Senate Judiciary Committee in the Oakland County Commissioners auditorium in Pontiac.

DOCTORS, INSURERS and lawyers who defend them put the blame for the rising tide of malpractice cases and the mass exit of medical practitioners on "flesh peddlers and malpractice mills." Those were their terms for companies which advertise like theatrical agents promoting out-of-state expert witnesses who sell their testimony to

patients suing doctors.

Lawyers — such as Oakland County Bar Association President George Googasian of Bloomfield Hills — were booed and hissed when they maintained that juries were only doing justice to patients wrongfully harmed by incompetent medical care.

Siding with the doctors was Judiciary Committee Chairman Alan Cropsey, R-DeWitt, though he himself is an attorney.

Cropsey publicly bawled out James Tuck, president of the Michigan Trial Lawyers Association, for "being negligent" in ignoring three earlier hearings and failing to offer solutions to the problems.

CLINTON, A soft-spoken statistician, focused more than any of the other witnesses on the reasons for high medical malpractice insurance costs.

Comparing auto and workers comp injury claims, Clinton said medical malpractice claims have these distinctions:

- Malpractice settlements are higher on average, with a wider variation in awards.
- Malpractice claims frequently aren't reported until two years after an incident.
- Malpractice cases are not paid off until four or five years after the event.
- Malpractice cases are costlier to litigate.

Because costs are so uncertain, insurers are unable to estimate losses and must build up large reserves, Clinton said.

And because so much of the settlement goes to courts, attorneys and expert witnesses, he said, "It is not a cost-efficient system."

"THE INDIANA Plan is the salvation of doctors," said Mike Miller, vice president of operations for Medical Protective Co., a Fort Wayne, Ind., insurer against medical malpractice in 15 states, including Michigan. (See box on this page for Indiana Plan details.)

Miller agreed with Clinton that insurers can't accurately predict premiums because they don't know what their payout will be. "Until you have the Silverdome collapse, you don't know how to price it."

"Is Michigan different from other states?

Absolutely!" said Miller, noting all but a handful of insurers quit Michigan years ago.

"Flesh peddlers and malpractice mills are your No. 1 problem," he went on. "They (patients' lawyers) have gotta go out of state to get 'experts.' You've gotta change that arena. You've gotta make it unethical for them to do that."

Miller also advocated that a "screening panel" of three doctors be set up to weed out "non-meritorious claims" and perhaps discontinue them from going to trial.

SPENCE JOHNSON, president of the Michigan Hospital Association, said rising malpractice costs will reduce the availability of medical care. More lawsuits and larger awards are having "devastating results," he said.

"The word is out among practitioners ... don't go to Michigan," Johnson said.

David Benfer, executive vice president of Henry Ford Hospital, said \$565 of every patient's bill goes to cover malpractice insurance, whose costs have risen 200 percent in two years.

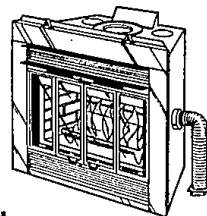
Rick Grattan, a lawyer representing the Michigan State Chamber of Commerce, said, "The cost of medical malpractice has gone through the roof." It's caused "not by any decline in the quality of medical care but by patients' expectations of perfect babies ... and a litigious society that sues at the drop of a stethoscope."

Robert M. Leitch, president and chairman of Michigan Physicians Mutual Liability Co., said malpractice claims have soared from 10 per 100 physicians in 1979 to 25 per 100 in 1984.

"Did medical care deteriorate in those few years? No ... it is easy and profitable to sue for malpractice," Leitch said.

Oakland Prosecutor L. Brooks Patterson said filing fees for medical malpractice cases should be lifted from \$75 to a non-refundable \$1,000. Judges should be required to file persons who file "frivolous" claims \$5,000. "Let's end the fishing expedition," Patterson said.

PREWAY'S ANNUAL  
**WAR ON WINTER**  
1985  
Chimney Giveaway and Fireplace Sale!



JUST \$837<sup>84</sup>  
PLUS—A FREE chimney package!

### Beat winter's chill with a Preway Super Energy Mizer fireplace!

Declare all-out-war on winter's icy blast—enjoy cozy evenings in front of your new Preway fireplace.

The Super Energy Mizer features:

- Complete outside air intake system for combustion
- Heat circulating system with new Ener-Jet-ic heat path
- Energy efficient sliding glass doors
- FREE CHIMNEY PACKAGE
- Chimney assembly, 8CA6
- (2) 48" lengths of 8" I.D. triple wall pipe
- Firestop spacer, 8FS2

Win the War on Winter with Preway, and enjoy that nice warm feeling all winter long!

Sale ends December 31, 1985.

**WILLIAMS PANEL BRICK DESIGN CENTER FIREPLACE SHOP**  
27303 W. 8 Mile (2 Miles West of Telegraph)

Mon., Tues., Wed., Fri. 8-5  
Thurs. 8-7  
Saturday 8-2

**CLARKSTON**  
625-7275

**REDFORD**  
538-6633

Call in your results:  
Eccentric - 644-1101  
Observer - 591-2312



## 'Indiana plan' boosted

Hospital and insurance groups in Michigan are rallying behind a set of legislative reforms aimed at reducing the cost of medical malpractice lawsuits and insurance premiums. Dubbed the "Indiana plan" because they are based on changes that state made in 1975, the main features are:

1. Place a cap on awards in malpractice cases. Most often mentioned figure: \$500,000.
2. Reduce the interest rate on awards. Currently, the jury's award earns 12 percent interest from the day the case is filed — typically three or four years before it's settled.
3. Allow "structured payments" of large awards, so that insurers wouldn't have to pay out more than \$500,000 in one year. Limit payments to the lifetime of the plaintiff.
4. Require that "expert" medical witnesses spend 75 percent of their time in practice or teaching in their specialties. Eliminate use of "experts" who do nothing but testify for a living.
5. End "deep pockets" picking where the medical defendant with the most money is expected to pick up the bill. Where there are multiple defendants, don't make one defendant disproportionately liable.
6. Limit time after injury in which a suit may be filed. Insurers complain Michigan has no effective statute of limitations, and lawsuits are started 20 years (for example) after brain damage is known to have occurred.

A NEW  
INEXPENSIVE WAY  
TO BUY QUALITY  
FURNITURE  
• Residential  
• Office  
• Commercial

Now you can buy name brand, top quality furniture the direct way at a tremendous savings, and have it delivered, set up and serviced by a company that has 35 years in the furniture business. A company that's here in this area to serve you personally. Find out about this new way to get the kind of furniture and service you expect, with greater savings than you'd ever expect.

Call 358-1980

Oscar Hertz  
Interiors

**YOUR MONEY OR YOUR LIFE.**

When you give to the Red Cross, you take on a great responsibility saving thousands of lives. Maybe even your own.



American Red Cross

## "Kathy's family needed hope."



A young mother with a serious illness. Her family in crisis. They came to Harper Hospital and found new hope. They learned that Harper is a university-based research and teaching hospital. A place where scientists work alongside physicians, transforming discovery into treatment. They found that Harper concentrates on the tough adult cases in cancer, heart disease and serious vision disorders.

Patients like Kathy come to Harper Hospital at the Medical Center with confidence. They come because Harper is a major participant, together with the Sloan-Kettering Institute in New York and the M.D. Anderson Tumor Institute in Houston, in America's network of only twenty Comprehensive Cancer Centers. Patients know that if the diagnosis is cancer, there is no better place to be than Harper Hospital. And they come with confidence because the Kresge Eye Institute is at Harper Hospital. This important Medical Center resource is devoted exclusively to the problems of vision. And through its research and clinical work, the Kresge Eye Institute gives new hope to millions with impaired vision throughout the world.

Harper is hope for heart patients, too. Its large scale, nationally recognized program brings together research, teaching, surgery and medicine. More open heart surgeries are performed each year at Harper than are performed at any other hospital in Michigan. But of more significance is the growing number of heart patients Harper is able to treat successfully each year without surgery.

For Kathy and her family. For Kathy and her family. Harper Hospital is Science. Research. Hope and Healing.

## NEED CASH? WE WANT YOUR

- ✓ Coins, Stamps, Gold, Silver
- ✓ Diamonds, Jewelry, Sterling
- ✓ Watches, Rolex & Breguets
- ✓ Old Postcards, Antiques, Etc.

**BIRMINGHAM COIN**

1287 S. Woodward • 6 Bks. N. of 14th  
Mon.-Sat. 9:30-5:30  
"BUYING OR SELLING - WE CAN HELP YOU"

## Harper Hospital

AT THE MEDICAL CENTER

SCIENCE / RESEARCH / HOPE AND HEALING

Affiliated with the School of Medicine, Wayne State University.

For more information about Harper Hospital, telephone 494-8000. • Physicians, please call 494-8130 for information regarding patient referrals. © 1985