

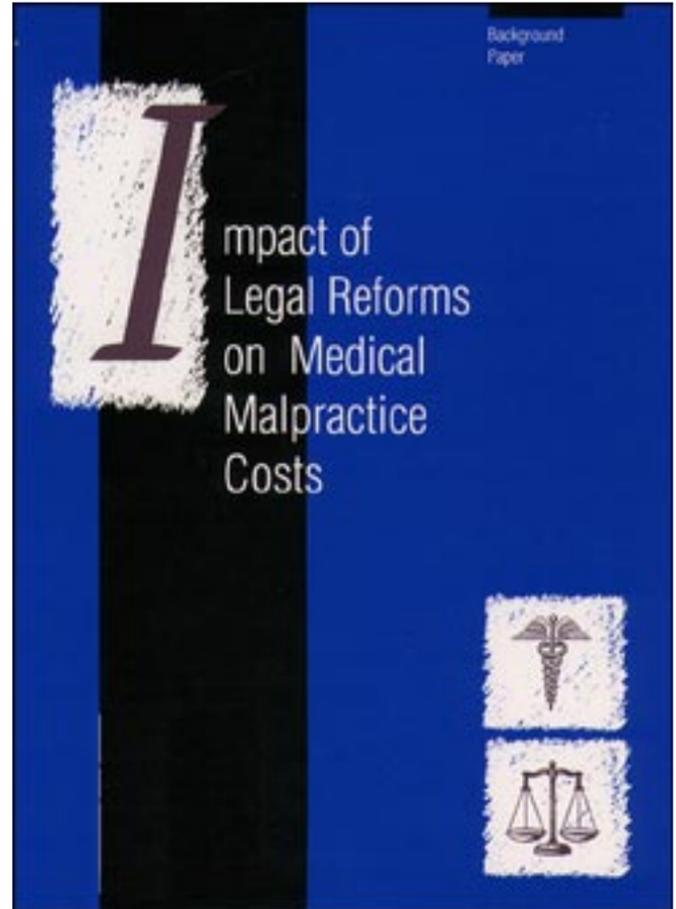
*Impact of Legal Reforms on Medical
Malpractice Costs*

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IMPACT OF LEGAL REFORMS ON MEDICAL MALPRACTICE COSTS

Background Paper
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Foreword

In the debate over rising health care costs, the medical malpractice liability system is frequently cited as an area where reform could lead to substantial savings. The medical malpractice system adds to the costs of health care directly, through physicians' liability insurance premiums, and possibly indirectly, through changes in physician behavior. While the direct costs of medical malpractice are relatively small (less than 1 percent of overall health care costs), the threat of medical malpractice may lead physicians to order medically unnecessary tests and procedures to protect themselves against a future lawsuit. This indirect cost of medical malpractice, commonly referred to as "defensive medicine," may add to overall health care costs. The cost of defensive medicine remains unknown and is subject to much speculation because there are no sound empirical data.

Congress is concerned about the cost of defensive medicine and requested that OTA undertake an assessment of this problem. The results of the assessment will be published in early 1994. In the interim, this background paper provides Congress with the most recent information on medical malpractice reforms in the States and examines whether these reforms reduce direct malpractice costs. The impact of these reforms on the indirect costs of medical malpractice, in particular defensive medicine, will be explored more thoroughly in the final report.

This Background Paper was prepared in response to a request by the House Committee on Ways and Means and the Senate Committee on Labor and Human Resources. The paper was prepared by OTA staff, but OTA gratefully acknowledges the contribution of the assessment's advisory panel, numerous State attorneys general, their staff, and other individuals who provided informal and reviewed drafts. As with all OTA documents, the final responsibility for the content of the assessment rests with OTA.



Roger C. Herdman
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