

*Do Medicaid and Medicare Patients Sue  
More Often Than Other Patients?*

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**DO MEDICAID AND MEDICARE PATIENTS SUE PHYSICIANS  
MORE OFTEN THAN OTHER PATIENTS?**

**BACKGROUND PAPER**

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## FOREWORD

Whether Medicaid and Medicare patients are likely to sue more or less often than other patients is a critical question in studying the recent trend of reduced physician participation in Medicaid and other publicly funded programs.

The Office of Technology Assessment addressed this issue as a part of its larger study on *Defensive Medicine and the Use of Medical Technology*. Denying medical access to patients whom physicians feel are more Litigious is defined as negative defensive medicine. This has become a particularly acute problem in the practice of obstetrics. The increased possibility of an adverse outcome, and therefore a potential lawsuit, as well as steeply rising malpractice insurance premiums is said to have driven physicians from the practice of obstetrics or significantly curtailed their volume of deliveries.

This background paper also responds to the request of the Congressional Sunbelt Caucus that OTA examine and judge the available evidence on whether Medicaid and Medicare patients, particularly obstetrics patients, are more litigious than other patients. Although the evidence is sparse, OTA's conclusions are strong: these patients are not more likely to sue and may actually sue less often than would be expected on the basis of their medical risks. A growing majority of obstetricians apparently agree with this assessment.

JOHN H. GIBBONS  
*Director*