

Economist: On snapping out of it

By Jack Worrall

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There they go again! These egghead actuaries complaining about tort costs. So what if tort costs were equal to a 5% tax, direct or hidden, on wages - or \$721 per person in the United States, according to a study by actuarial consultants Tillinghast –Towers Perrin - in 2001. We're from New Jersey, Exit 4. We can take it. We were at \$1,000 a person by the end of 1996. New Jersey and hidden taxes, perfect together. Let wimpier states try and catch us. We're runnin' just as fast as we can.

And what's with these Docs complaining about their malpractice-insurance premiums? Malpractice-insurance costs were only \$20 billion in America in 2001. That's only 10 percent of tort costs. Just because they had to go to school for 24 years, borrow to the hilt, and have managed care and Medicare cutting their reimbursement rates doesn't mean they have to be crybabies.

And why are they always complaining about lawsuits and large awards? Just because indemnity payments on claims over \$1 million were

25% of total indemnity payments doesn't give them the right to complain. Hey, they live in the Delaware Valley. They should know that the Delaware Valley beat the *entire* State of California in indemnity awards and settlements in 2001.

And what's with these Jerseyans complaining about the size of awards? The February 1994, Eagleton Poll of the General Population of New Jersey asked whether our citizens would support or oppose a law that would set limits on the amount of money that could be awarded if they did sue. Almost 3 of 4 were clearly misguided because 48% of New Jerseyans said they strongly supported, and 23% said they mildly supported such a law.

Don't panic. They were all probably from North Jersey.

Here in New Jersey, *we* know its all an insurance company plot. In the 1970's virtually all of them stopped selling medical-malpractice insurance. It was a sneaky plan, indeed. They figured that they were making too much money selling this line of insurance, and they certainly didn't want that to happen, so they faked us out by abandoning the market – just like those automobile insurers who left New Jersey in droves because *they* were making a fortune in the state! One of the few medical-malpractice carriers that remained in New Jersey has a stealth plan to disguise its

massive profits. It managed to get its stock price down below a dollar and get de-listed from the New York Stock exchange.

Don't worry, the New Jersey Assembly will end this mess. Why, just look at their *Statement to Assembly No. 50* (Dec. 9, 2002). "In any judgment in which noneconomic damages exceed \$1 million, unless otherwise agreed to by the parties, 50% of the money damages are to be paid immediately, with the costs and attorney's fees paid from that amount."

Now that's some reform! Talk about having your priorities in order.

The New Jersey Senate, on the other hand (we economists like to say "on the other hand"), is trying to bollix up the works. They want to put a \$300,000 cap on noneconomic damages (pain and suffering awards), with up to \$700,000 more to be paid from an excess liability fund financed from fees imposed statewide on all wage earners and additional fees on doctors and lawyers. The Senate voted 32-5 for this substitute bill. They probably read that Eagleton Poll.

Guess which of the reform bills the New Jersey state trial bar supports and which the state medical society supports?

When the Legislature gets back to business on May 15, it will have to reconcile these two positions. Should be some fun, since the Assembly Speaker has already informed the citizenry that the Senate Substitute Bill

does not stand a chance in the Assembly. Medical professionals will probably be marching on Trenton, Jerseyans will be guarding their wallets, and more Docs will be ready to turn off their lights.

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