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The relationship between the markets for health insurance and medical malpractice insurance

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Disclosure statement

No potential conflict of interest was reported by the authors.

Notes

¹ Kessler ([2011](#)) provides an overview of the malpractice system that includes statistics on payouts and a discussion of the intent of tort reform laws.

² Medical malpractice refers to the legal liability incurred by physicians and other medical professionals when patients sustain injuries while receiving medical care. More specifically, if a physician deviates from normal standards of care, as determined by the prevailing tort laws of a state, and injures a patient, the medical professional is said to have committed medical malpractice.

³ A tort reform can be defined as a change in the legal system that affects the way in which a plaintiff can collect for damages. There are several types of tort reforms, including caps on damages, changes in the rules of evidence, and changes in the rules of procedure (see Baker and Baker [2009](#)).

⁴ See  for a detailed analysis of the impact of tort reform on the malpractice industry and malpractice insurance rates of physicians.

⁵ Under the current system, the average malpractice insurance premium per-

⁶ From the financial perspective of the provider, providers are not typically well equipped to take on capitation contracts and partly in response to this concern, providers continue to form larger groups and unite with other health care organizations, in order to increase their capital base and ability to bear risk (Simon and Emmons [1997](#)).

⁷ To the extent that time spent interacting with health insurance plans leads to less time spent with patients, this evidence further suggests that health insurance markets have a meaningful influence on the way that medical professionals interact with patients.

⁸ The authors evaluated changes in the total number of physicians, and the change in those practising in obstetrics/gynaecology, surgery, and internal medicine.

⁹ Changes in physician behaviour in response to malpractice risk are often referred to as 'positive defensive medicine' (actions taken to improve the quality of care) and 'negative defensive medicine' (actions taken that are unnecessary, or withdrawal of actions that are necessary). See Kachalia, Choudhry, and Studdert ([2005](#)).

¹⁰ For example, all states have varying types of mandated health insurance benefits which, in many cases, affect the contract design and claims levels of health insurers (The Center for Affordable Health Insurance Report, 2010).

¹¹ All medical malpractice events). A recent analysis of malpractice characteristics

¹² According to the study, there is a significant relationship between

¹³ The study also found that the number of malpractice claims filed from the by-annual aggregation of claims, complement, (see Exhibit). Exhibit of Premium filings. The



³² We thank an anonymous referee for identifying these specific factors.

³³ Total health enrollees is defined as the sum of all health enrollees in state i during year t across all health insurers and data are obtained from the NAIC health filings. The alternative scaling is insightful because it allows us to allocate losses for the respective insurance markets more closely to the population for which each type of coverage is relevant. While the results using the alternatively scaled variables provide important and robust evidence, we provide the evidence using uniform scaling of all variables by population for consistency.

³⁴ Active physicians is omitted as an independent variable due to the fact that it is used to scale the dependent variable.

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