

# Neurosurgery in a State of Crisis

**Report on the State of Professional Liability Insurance Rates  
and the Impact on Neurosurgeons and their Patients**

**American Association of Neurological Surgeons  
Congress of Neurological Surgeons  
Council of State Neurosurgical Societies**

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## Nationwide Survey Confirms Professional Liability Insurance Crisis for Neurosurgeons

Neurosurgeons are becoming increasingly concerned about their ability to find affordable professional liability insurance (PLI) and the impact that this problem is having on patient access to neurosurgical care. Over the past year, a growing body of evidence has demonstrated that PLI premiums have been rising at an alarming rate. To verify the scope and magnitude of this problem for neurosurgeons, the American Association of Neurological

Surgeons (AANS) and the Congress of Neurological Surgeons (CNS), through its Council of State Neurosurgical Societies (CSNS), recently conducted a nationwide survey of neurosurgeons. Data collected from this survey confirms that there is indeed a significant problem of increasing PLI premiums in neurosurgery, which has serious implications for patients in need of neurosurgical care.

### Results in Brief

In February 2002, a single-page survey was faxed to 2,410 neurosurgeons. The survey requested data on annual premiums for 2000, 2001 and 2002, coverage information, insurer and insurance type, as well as general demographic information. To determine the impact that changes in PLI coverage is having on patients, the survey also asked whether neurosurgeons planned to retire, move or restrict their practices as a result of increases in their PLI costs. Data was accrued over one month and was analyzed using the Kruskal-Wallis test, correlation analysis and ANOVA.

A total of 563 surveys were returned for a 23.3 percent response rate. An additional 118 surveys were received in subsequent months. There were responses from 48 states and the District of Columbia and the overall number of respondents per state correlated with the population distribution in each state. Further validity of the survey's representative nature was obtained by analysis of the respondents' distribution in terms of practice type and location.

The results of the survey indicated that

although at the present time the PLI crisis is regionalized, affecting some states more than others, most states have been affected by significant increases in annual premiums. From 2000 to 2002, the national average premium increase was 63%.

Table 1, below, highlights the neurosurgeons' national PLI costs based on \$1million/\$3million coverage.

<b>Neurosurgeons Professional Liability Premiums 2000 and 2002</b>			
<b>Year</b>	<b>Minimum</b>	<b>Average</b>	<b>Maximum</b>
2000	\$13,650	\$44,493	\$175,000
2002	\$18,562	\$72,682	\$304,985

Table 2, below, outlines the percentage change in neurosurgeons' professional liability insurance premiums from 2000-2002.

<b>Change in Neurosurgeons PLI Costs 2000 to 2002</b>	
<b>Percent of Change</b>	<b>Percent of Neurosurgeons</b>
Over 100% Increase	19%
51% to 100% Increase	13%
Up to 50% Increase	50%
No Change	11%
Decrease	7%

## States in Crisis

According to the survey data, 25 states are in “severe” PLI crisis, 12 states are in “potential” crisis and 14 states are currently stable. A severe crisis state is defined by either having a 50 percent increase in premiums from 2000 to 2002, or average premiums near or over \$100,000 in 2002. A potential crisis state is defined by having a 25-50 percent increase in premiums from 2000 to 2002.

The severe crisis states include:

Alabama	North Carolina
Arkansas	Ohio
District of Columbia	Oregon
Delaware	Pennsylvania
Florida	Rhode Island
Illinois	South Carolina
Kentucky	Tennessee
Mississippi	Texas
Missouri	Utah
Montana	Virginia
Nevada	Washington
New Hampshire	West Virginia
New York	

## Patient Access to Care In Jeopardy

This crisis is not only about the availability and affordability of liability insurance for neurosurgeons, but most critically, it is about a looming problem of patient access to neurosurgical care. The survey showed that as a result of neurosurgeons’ premium increases:

- 43% have, or are considering, **restricting their practices**
- 29% either plan to, or are considering, **retiring**
- 19% either plan to, or are considering, **moving**

This means that:

The potential crisis states are:

Arizona	Indiana
California	Kansas
Colorado	Massachusetts
Connecticut	Maryland
Georgia	Michigan
Iowa	New Jersey

Finally, states where PLI costs are stable include:

Alaska	New Mexico
Hawaii	North Dakota
Idaho	Oklahoma
Louisiana	South Dakota
Maine	Vermont
Minnesota	Wisconsin
Nebraska	Wyoming

Neurosurgeons in many of the crisis states are typically paying over \$100,000 per year for their professional liability insurance premiums. Some neurosurgeons are now paying in excess of \$300,000 per year, if they can obtain insurance at all.

**Patients Can’t Get Complex Neurosurgical Procedures.** Neurosurgeons are no longer performing high-risk surgery to lower their PLI costs and minimize their risk of suit. In many instances, brain surgeons are no longer doing brain surgery.

**Patients Can’t Get Emergency Medical Treatment.** Fewer neurosurgeons are covering hospital emergency rooms and trauma hospitals are shutting their doors and “diverting” patients with serious head and spinal cord injuries to other locations. Critical life-saving time is lost while searching for an available emergency room.

**Patients Can't Find a Neurosurgeon Close to Home.** Neurosurgeons are moving to states where PLI costs are relatively stable. Mississippi, for instance, has lost 30% of its neurosurgeons in the past two years. Patients now must travel great distances, often going out-of-state to get neurosurgical care. Further exacerbating this problem is the looming manpower

shortage caused by a high retirement rate. According to the American Board of Neurological Surgery, in 2001 alone, over 300 neurosurgeons retired. This is 10 percent of our nation's neurosurgical workforce and for the first time in over a decade, there are now fewer than 3,000 board certified neurosurgeons practicing in the United States.

## **Federal Professional Liability Reform Legislation Will Ease the Crisis**

Clearly the data demonstrate that neurosurgeons and their patients are facing a nationwide professional liability crisis unlike anything that has happened before. Left unchecked, the increases in frivolous litigation and outrageous jury awards will cripple this country's health care system. Congress must enact federal professional liability reform legislation modeled after California's Medical Injury Compensation Reform Act, or MICRA. The key elements of this reform are:

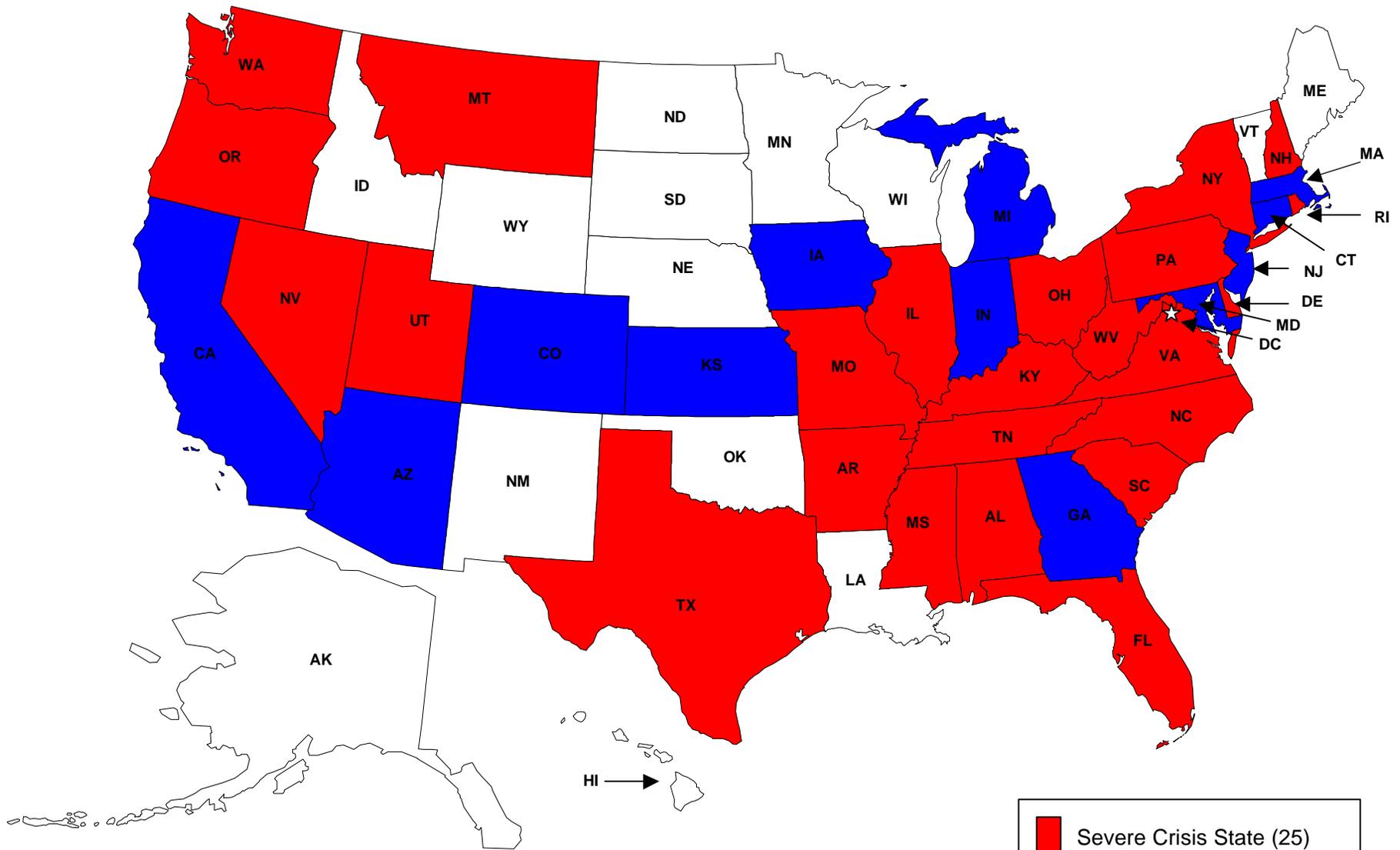
- 100% payment of economic damages (e.g., lost wages and medical expenses);
- \$250,000 cap on non-economic damages (e.g., pain and suffering);
- Periodic payments rather than lump sum awards of more than \$50,000
- Elimination of joint and several liability so each defendant in a lawsuit is responsible for his or her proportion of fault; and
- Reasonable statute of limitations for filing a lawsuit

For nearly 3 decades, MICRA has brought stability to the PLI market, while at the same time fully compensating injured patients for their legitimate injuries. In a similar manner, federal legislation of this nature will ensure that patients and doctors nationwide will reap the benefits of this rational approach to solving the professional liability crisis.

*For more information about the statistics and findings contained in this report, please contact:*

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# States in Professional Liability Crisis for Neurosurgeons



**Severe Crisis** = Premium increase greater than 50% from 2000-2002 or average premiums near or over \$100,000 in 2002  
**Potential Crisis** = Premium increase between 25-50% from 2000-2002.  
 Source: Council of State Neurosurgical Societies National Survey of Neurosurgeons

<span style="color: red;">■</span>	Severe Crisis State (25)
<span style="color: blue;">■</span>	Potential Crisis State (12)
<span style="color: white;">□</span>	Stable State (14)