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## Malpractice premiums peak in 2020, AMA survey shows

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Medical liability insurance premiums have started to tick up after holding relatively steady over the past decade, a new report found.

More than a quarter of physician practices' **malpractice** premiums increased in 2019 and 2020, up from around 13% to 15% from 2011 to 2018, according to the American Medical Association's annual rate **surveys** that monitor general surgery, obstetrics and internal medicine. More than 5% of physician practices saw their premiums jump more than 10% in 2020; 25.9% experienced up to a 9.9% increase, which was the highest share over the past decade.

The 2020 premiums were set prior to the **COVID-19 pandemic**, researchers noted.



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"Higher premiums don't equate to a greater likelihood of there being errors, only the likelihood of legal action," said Mark Silberman, chair of Benesch's white collar, government investigations and regulatory compliance practice group, adding that patients are likely to ultimately bear the higher cost.

The American Medical Association said that the upward trend in premiums couldn't come at a worse time for physicians. Providers have had to pay more for supplies while practice revenue has still not fully recovered to pre-pandemic levels, AMA President Dr. Susan Bailey said.

"Keeping medical liability premium growth in-check is imperative to ensure patient access to care is not jeopardized by unaffordable liability insurance costs that make it impossible for physicians to remain in practice," she said in prepared remarks.

The AMA is pursuing emergency protections for physicians who continue to treat patients during the pandemic without adequate resources and support, Bailey added. **Several states** have considered or enacted laws to grant providers immunity from criminal or civil lawsuits involving COVID-19 patients.

Tryon Medical Partners, a North Carolina-based practice of 93 physicians, did not see a material change in their liability premiums last year, the group said. North Carolina was among the states with fewest practices experiencing significant increases. Kentucky, South Carolina, Maryland, Nebraska, Oregon and Montana saw the largest share of significant upward swings.

The wide geographic variation in premiums was striking, researchers noted. For example, general surgeons and OB/GYNs faced 2020 manual premiums ranging from \$41,775 and \$49,804, respectively, in Los Angeles County compared to \$205,380 for both specialties in Miami-Dade County, Fla., AMA data show.

The COVID-19 pandemic is expected to inflate malpractice premiums, even though fewer people sought healthcare. Insurance companies may expect more lawsuits given the relatively new and untested realm of telehealth and associated data privacy concerns. People were also getting sicker as a result of COVID-19.

But there are too many counter-arguments to the claims that COVID-19 likely increases risk and therefore recoveries, Silberman said.

"These circumstances are ill-suited to be handled via the traditional malpractice model," he said. "But I don't think that is going to discourage plaintiff lawyers from bringing actions or that means insurers aren't going to take the appropriate steps to protect their margins. Unfortunately, patients will likely feel the brunt of it because they will either lose access or ultimately bear the cost."


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