



The Doctor is in... *Another State*

*How NYPIRG's Physician Supply Report
Misses the Mark*

September 2014

About the Lawsuit Reform Alliance of New York

The Lawsuit Reform Alliance of New York (LRANY) is a non-partisan 501(c)(4) nonprofit organization which advocates for reform of New York's legal system in order to foster a better business climate, promote job growth, and address the growing cost of lawsuit abuse. LRANY's members include local and national businesses, entrepreneurs, healthcare providers, and taxpayers from across the state.

Executive Summary

The recent report, "The Doctor IS In: New York State's Increasing Number of Practicing Physicians" by the New York Public Interest Research Group (NYPIRG) (available [here](#)) is deeply flawed. The report fails to consider New York's rate of physician growth relative to the rest of the country, and makes unsupported claims that New York is not facing a physician shortage and that high medical liability rates do not affect physician supply.

The report is crafted to advance a specific agenda

Despite its seemingly innocuous name, the New York Public Interest Research Group is a lobbying group closely aligned with the personal injury trial lawyer lobby, whose members profit handsomely from New York's broken medical liability system. The group has been called "a mouthpiece for the trial lawyers"¹ and has so far refused calls to publicly disclose its financial backers. Readers should be aware that the report is a lobbying tool used to advance an agenda, and should not be confused with legitimate, peer reviewed academic research.

The report misses the big picture

The body of data that NYPIRG draws on - total number of physicians per capita - presents only a static image of New York's physician supply, and fails to assess long term trends. A more complete look at the data paints a much different picture.

Between 2008 and 2012, the national average per capita growth in total physician supply was 6.04 per 100,000, yet New York's per capita supply grew by only 2.3 per 100,000, **barely one third the national average**. Thirty-seven states performed better than New York, including states that have

At a Glance:

NYPIRG's focus on per capita physician numbers for a single year misses the broader trend. Between 2008 and 2012, New York's per capita growth in total physician supply was only one third the national average - worse than 37 other states.

The report's conclusion that there is no physician shortage is unfounded because it accounts for total physician supply but not total physician need

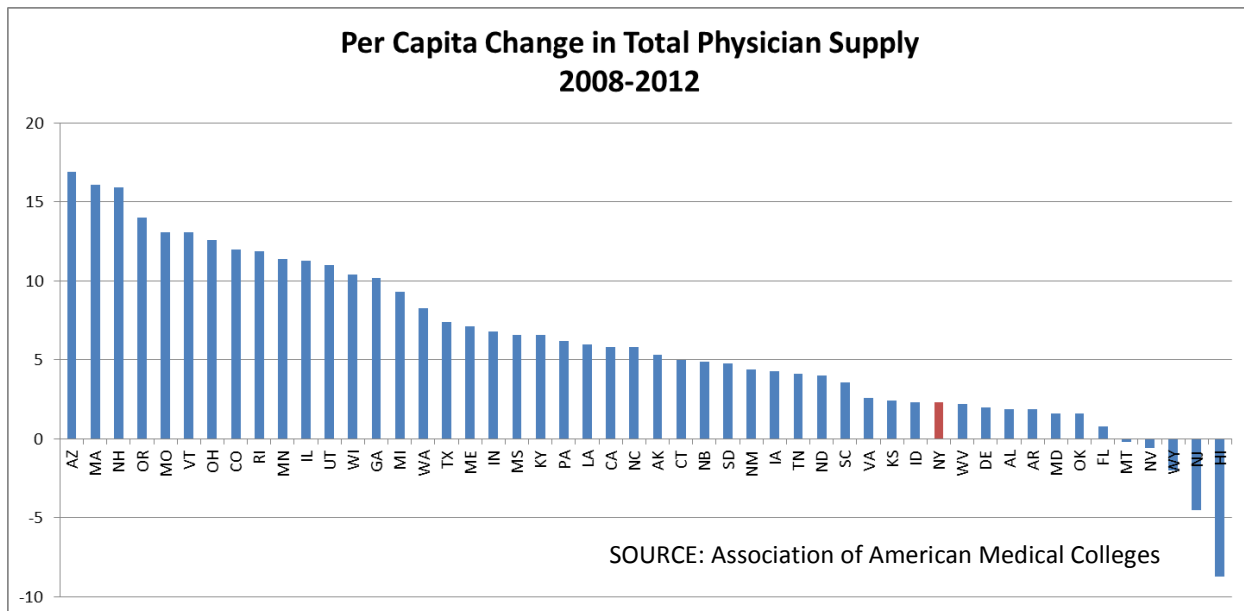
The total physician shortage in NY, excluding NYC, is over 1,000

75% of hospitals report that attracting physicians is difficult due to shortages

The report's conclusion that medical liability costs are not affecting physician supply is not supported by any data

Financial considerations are the top reported reason physicians locate or relocate in a region (57%)

¹Confessore, N. "A Cuomo Aide Criticizes a Former Cuomo Aide." The New York Times. 1 March, 2011



enacted key tort reforms such as Texas, California, Wisconsin, and Florida. In terms of active patient care physicians, New York’s per capita growth lagged behind twenty other states which collectively represent more than half of the country’s population.²

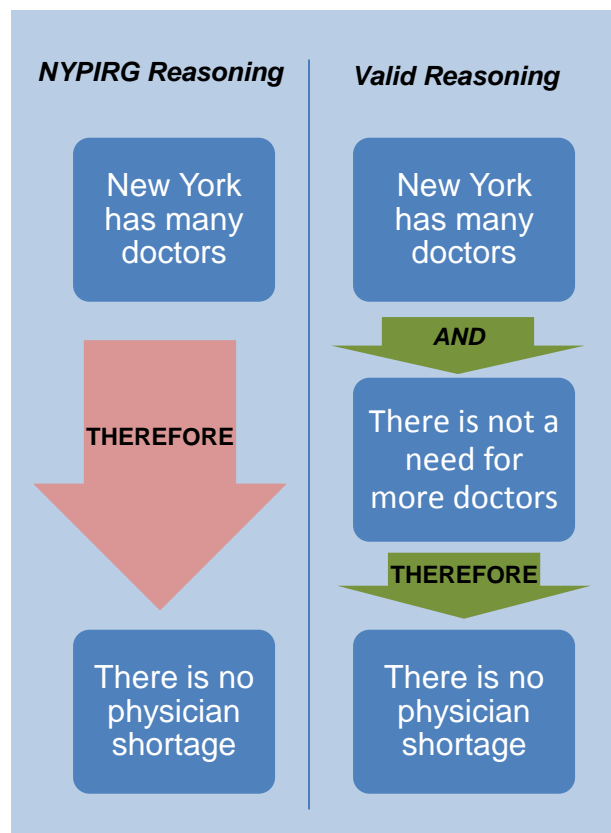
The report draws conclusions that are not supported by the data

A key “finding” of NYPIRG’s report is that “*there is no physician shortage in this state.*” As evidence, NYPIRG puts forth the statistic that the number of physicians practicing in New York increased 10% between 2004 and 2012. However, this claim is wholly invalid because NYPIRG does not take into account the total *need* for physicians in New York. New York may have a high number of physicians per capita, but that figure alone is insufficient to prove there is not a need for more.

There *is* a well-documented physician shortage in New York

Excluding New York City, the Healthcare Association of New York (HANYS) recently estimated New York’s total physician shortage to be over 1,000. Seventy-five percent of hospitals surveyed by HANYS reported that the recruitment of primary

² Source: analysis of Association of American Medical Colleges State Physician Workforce Data Books. States with superior growth in per capita active patient care physician supply were: CT, IN, CA, TX, ME, LA, VT, GA, MA, OH, IL, CO, MO, OR, WI, MI, UT, MN, NH, AZ



care physicians was very difficult due to shortages, while 87% indicated that their ability to recruit physicians was the same or worse than the previous year.³ Eight New York counties now have zero practicing Ob-Gyns, and more than a dozen New York hospitals have stopped providing regular obstetrical services because of liability costs.⁴

New York leads the nation in medical malpractice payouts

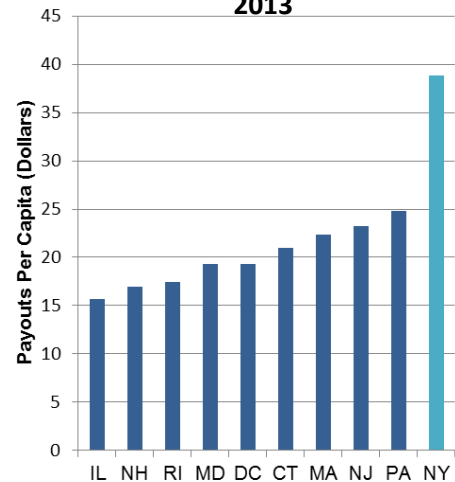
New York's per capita medical malpractice payouts are the highest in the nation - more than three times the national average, and almost double that of the next highest state. Our state now accounts for 20 percent of all payouts in the nation.⁵ Accordingly, according to the most recent data, New York's medical malpractice insurance premiums are among the highest in the nation.⁶

Medical liability premiums *are* a major consideration for physicians

Another of the NYPIRG report's "findings" is that *"despite New York having medical malpractice premiums that are higher than the national average, there is little, if any, apparent impact on the number of physicians who choose to practice in the state."* The report notes that in some case the number of physicians is increasing in areas where medical malpractice rates are high and decreasing in some locations where rates are low - and therefore New York's physician shortages are *"unrelated to the medical malpractice environment."* Here again, the report's limited and rudimentary analysis does not support this conclusion. It is likely that high medical malpractice rates are a substantial contributing factor in New York's relatively poor physician supply growth rate. We believe the growth rate would be significantly higher were premiums lower - on par with the numerous states which have taken steps to reduce medical malpractice lawsuit abuse.

A recent survey found that financial considerations are far and away the most dominant consideration for relocation by physicians, at 57%. Far below were preferences for a different sized community (38%) and different climate or geographical region (21%)⁷.

**U.S. Medical Liability Payouts
2013**



³ Healthcare Association of New York, 2013 Physician Advocacy Survey

⁴ American Congress of Obstetricians and Gynecologists, District II Report, 2012.

⁵ Diederich Healthcare, 2014 Medical Malpractice Claims Payout Analysis. Data sourced from the National Practitioner Claims Data Bank.

⁶ Excellus Blue Cross Blue Shield, Facts About New York State Medical Malpractice Coverage Premiums: 2013-14 Standard Medical Malpractice Premium Rates.

⁷ American Medical group Association. "Eriksson Physician Search 2012 Annual Survey: Top Motivators for Physician Relocation."

“When the patients wonder why I relocated to Houston from New York City I am very honest, and I let them know. I relocated because Texas has tort reform.”

NYPIRG’s implication is that high medical malpractice rates are not causing doctors to leave the state or retire early – but perhaps they should have asked the doctors themselves. Consider the case of Dr. Wendy Villalobos, an OB-GYN practicing in Brooklyn. By 2009, Dr. Villalobos’ medical liability premium was \$186,000, and her rates were climbing. Meanwhile, insurance rates had fallen by 54% in Texas following comprehensive lawsuit reform. Dr. Villalobos moved her practice to Texas in 2009 specifically because of high medical liability insurance rates. “When the patients wonder why I relocated to Houston from New York City I am very honest, and I let them know. I relocated because Texas has tort reform.”⁸ Her rates are now 20% what they were in New York, and her best friend, an OB-GYN, recently made the move as well.⁹

⁸ Texas Alliance for Patient Access. Video: “Why a New York Doctor Moved to Texas.” <http://www.tapa.info/>

⁹ “Thanks for the Doctors New York” The New York Post. August 17, 2011.

Appendix

Table 1. Total physician supply by state 2008-2012. Source: American Association of Medical Colleges State Physician Workforce Data Book.

State	2008		2010		2012		Per Capita Change
	Total	Per 100k	Total	Per 100k	Total	Per 100K	
AL	9,274	198.9	9,508	201	9,681	200.8	1.9
AK	1,665	242.6	1,721	242.8	1,813	247.9	5.3
AZ	13,909	214	14,694	220.1	15,133	230.9	16.9
AR	5,396	189	5,518	189.6	5,629	190.9	1.9
CA	92,563	251.8	95,198	255.5	97,977	257.6	5.8
CO	12,609	255.3	13,243	259.9	13,869	267.3	12
CT	11,478	327.8	11,678	331.1	11,949	332.8	5
DE	2,304	263.9	2,393	268.4	2,439	265.9	2
FL	46,201	252.1	47,590	254.8	48,852	252.9	0.8
GA	19,807	204.5	20,511	207	21,300	214.7	10.2
HI	3,847	298.6	3,970	305.4	4,037	289.9	-8.7
ID	2,771	181.8	2,873	184.2	2,938	184.1	2.3
IL	32,484	251.8	33,594	259.5	33,874	263.1	11.3
IN	13,513	211.9	13,900	215.7	14,295	218.7	6.8
IA	6,134	204.3	6,294	208.2	6,414	208.6	4.3
KS	5,903	210.7	6,058	213.2	6,151	213.1	2.4
KY	9,149	214.3	9,479	218.4	9,678	220.9	6.6
LA	10,131	229.7	10,541	232.7	10,846	235.7	6
ME	3,952	300.2	4,031	307	4,084	307.3	7.1
MD	20,452	363	21,153	368.7	21,455	364.6	1.6
MA	26,346	405.4	27,550	415.5	28,016	421.5	16.1
MI	25,869	258.6	26,325	265.1	26,476	267.9	9.3
MN	13,784	264	14,262	269.6	14,814	275.4	11.4
MS	5,120	174.2	5,221	176.4	5,396	180.8	6.6
MO	14,227	240.7	14,825	246.6	15,282	253.8	13.1
MT	2,213	228.7	2,232	227.7	2,297	228.5	-0.2
NB	3,834	215	3,981	219.8	4,080	219.9	4.9
NV	5,069	194.9	5,264	198.3	5,361	194.3	-0.6
NH	3,718	282.6	3,872	292.6	3,942	298.5	15.9
NJ	25,463	293.3	25,629	293.5	25,604	288.8	-4.5
NM	4,516	227.6	4,673	229.8	4,839	232	4.4
NY	67,545	346.6	68,042	347.5	68,273	348.9	2.3
NC	21,251	230.4	22,367	236.5	23,034	236.2	5.8
ND	1,488	232	1,558	238.3	1,651	236	4

OH	29,645	258.1	30,485	264.3	31,248	270.7	12.6
OK	7,152	196.4	7,406	198.8	7,552	198	1.6
OR	10,156	268	10,594	274.8	10,995	282	14
PA	36,838	295.9	38,207	302.4	38,565	302.1	6.2
RI	3,424	325.9	3,515	332.6	3,548	337.8	11.9
SC	9,562	213.4	9,922	215.8	10,250	217	3.6
SD	1,743	216.7	1,779	216.9	1,846	221.5	4.8
TN	14,728	237	15,302	241.4	15,568	241.1	4.1
TX	48,782	200.5	51,691	205	54,167	207.9	7.4
UT	5,259	192.2	5,598	197.8	5,801	203.2	11
VT	1,987	319.8	2,008	322.6	2,084	332.9	13.1
VA	19,392	249.6	20,270	254.9	20,647	252.2	2.6
WA	16,921	258.4	17,796	263.8	18,395	266.7	8.3
WV	4,328	238.5	4,485	245.7	4,466	240.7	2.2
WI	13,742	244.2	14,319	252.6	14,578	254.6	10.4
WY	1,029	193.2	1,057	193	1,102	191.2	-2

Table 2. Active patient care physicians by state 2008-2012. Source: American Association of Medical Colleges State Physician Workforce Data Book.

State	2008		2010		2012		Per Capita Change
	Total	Per 100k 2008	Total	Per 100k 2010	Total	Per 100K 2012	
AL	8,335	178.8	8,418	178	8,716	180.8	2
AK	1,536	223.8	1,575	222.2	1,637	223.8	0
AZ	12,361	190.2	12,904	193.3	13,542	206.6	16.4
AR	4,896	171.5	4,921	169.1	5,142	174.4	2.9
CA	80,076	217.9	81,017	217.4	85,542	224.9	7
CO	11,220	227.2	11,663	228.9	12,297	237	9.8
CT	9,615	274.6	9,628	273	10,098	281.3	6.7
DE	2,039	233.5	2,079	233.2	2,131	232.4	-1.1
FL	41,515	226.5	42,302	226.5	43,736	226.4	-0.1
GA	17,497	180.6	17,823	179.9	18,699	188.5	7.9
HI	3,443	267.3	3,452	265.5	3,492	250.8	-16.5
ID	2,613	171.5	2,691	172.5	2,766	173.3	1.8
IL	27,655	214.4	27,935	215.8	28,811	223.8	9.4
IN	12,296	192.8	12,536	194.5	13,050	199.6	6.8
IA	5,391	179.5	5,459	180.6	5,606	182.4	2.9
KS	5,284	188.6	5,339	187.9	5,503	190.7	2.1

KY	8,136	190.6	8,318	191.7	8,578	195.8	5.2
LA	8,923	202.3	9,109	201.1	9,662	210	7.7
ME	3,529	268.1	3,572	272.1	3,665	275.7	7.6
MD	16,064	285.1	16,120	281	16,747	284.6	-0.5
MA	20,547	316.2	20,878	314.8	21,542	324.1	7.9
MI	22,171	221.6	22,344	225	23,166	234.4	12.8
MN	11,961	229.1	12,363	233.7	13,083	243.2	14.1
MS	4,677	159.2	4,718	159.4	4,908	164.4	5.2
MO	12,306	208.2	12,514	208.2	13,180	218.9	10.7
MT	2,096	216.7	2,101	214.4	2,145	213.4	-3.3
NB	3,388	190	3,444	190.2	3,604	194.2	4.2
NV	4,652	178.9	4,728	178.1	4,838	175.4	-3.5
NH	3,312	251.7	3,407	257.4	3,511	265.8	14.1
NJ	22,118	254.7	21,958	251.4	22,588	254.8	0.1
NM	3,908	196.9	3,987	196	4,199	201.3	4.4
NY	54,895	281.7	54,306	277.4	56,345	287.9	6.2
NC	18,534	201	19,096	201.9	20,023	205.3	4.3
ND	1,364	212.6	1,418	216.9	1,513	216.3	3.7
OH	25,201	219.4	25,315	219.5	26,381	228.5	9.1
OK	6,436	176.7	6,655	178.7	6,952	182.2	5.5
OR	8,985	237.1	9,243	239.7	9,700	248.8	11.7
PA	30,870	248	31,250	247.4	32,294	253	5
RI	2,875	273.6	2,843	269	2,931	279.1	5.5
SC	8,689	194	8,902	193.6	9,322	197.3	3.3
SD	1,615	200.8	1,636	199.5	1,694	203.3	2.5
TN	13,097	210.7	13,307	210	13,863	214.7	4
TX	42,649	175.3	44,395	176.1	47,588	182.6	7.3
UT	4,565	166.8	4,798	169.5	5,152	180.4	13.6
VT	1,686	271.4	1,685	270.7	1,748	279.2	7.8
VA	17,017	219	17,570	220.9	18,177	222.1	3.1
WA	14,852	226.8	15,366	227.8	16,072	233	6.2
WV	3,803	209.6	3,841	210.4	3,917	211.1	1.5
WI	12,376	219.9	12,675	223.6	13,283	232	12.1
WY	964	181	979	178.8	1,034	179.4	-1.6