



Patients
For Fair Compensation

Georgia Public Policy Foundation Legislative Policy Briefing

Patients' Compensation System

Proposed Solution to Eliminate the Practice of Defensive Medicine

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Chairman & CEO, Jackson Healthcare

Chairman, Patients for Fair Compensation

“The medical malpractice tort system in the United States is based on three main goals:

-deterrence of unsafe practices

-compensation for injured persons, and

-corrective justice

The tort system is not accomplishing these goals.”

Sarah Z. Hoffman, Attorney at Law

ANNALS OF HEALTH LAW

Winner of the 2008 Illinois Association of Healthcare Attorneys
Law Student Writing Competition

“Doctors reported that 26% of overall healthcare costs can be attributed to the practice of defensive medicine”

This equates to \$650 Billion per year

Gallup survey of physicians
February, 2010

What is Defensive Medicine?

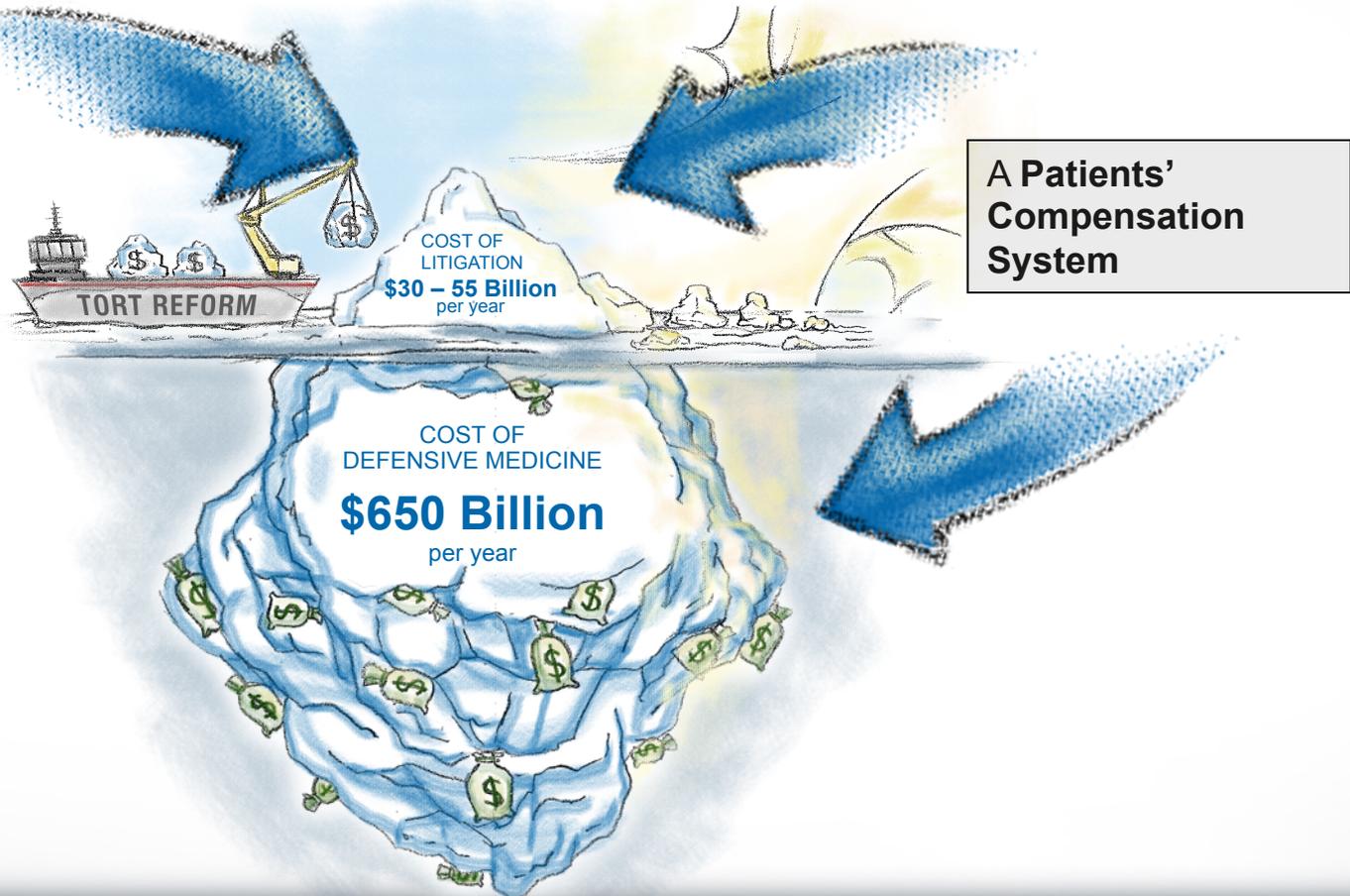
“The practice of ordering medical tests, procedures, or consultations of doubtful clinical value in order to protect the prescribing physician from malpractice suits.”

Merriam-Webster

Patients' Compensation System

Reduces both litigation costs and cost of defensive medicine

Traditional tort reform only reduces the cost of litigation

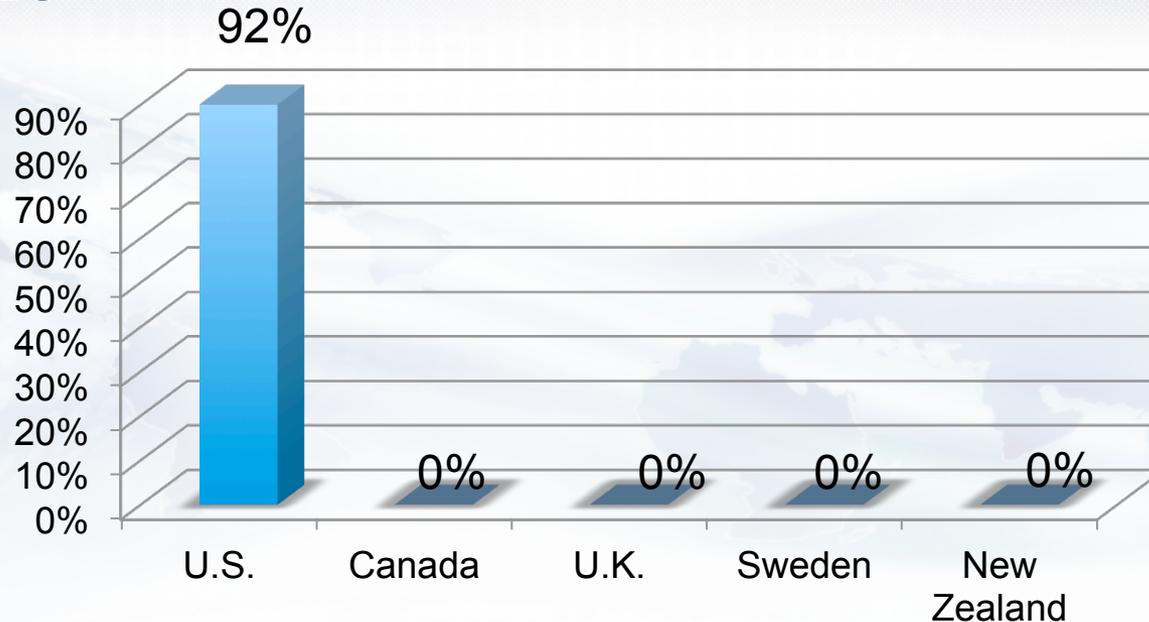


A Patients' Compensation System

Physicians in states that have passed traditional tort reform still practice same amount of defensive medicine as other states.

Source: Jackson Healthcare 2010 survey

Percentage of Physicians Practice Defensive Medicine



Source: 2011 Pacific Survey

U.S. physicians are the only physicians in the world who are personally financially liable for malpractice; and the only ones practicing defensive medicine.

Why Do Physicians Practice Defensive Medicine?

- Physicians are risk-averse to personal financial exposure from “jackpot justice” awards from non-peers
- Physicians abhor defending themselves against lawsuits

Source: Jackson
Healthcare 2010 survey

Why is Defensive Medicine a Problem for Patients?

- Unnecessary tests & procedures
- Denied necessary care
- Physicians cannot afford to admit mistakes
- Quality care is diminished
- Increased cost of healthcare

Georgians Realize the Problem

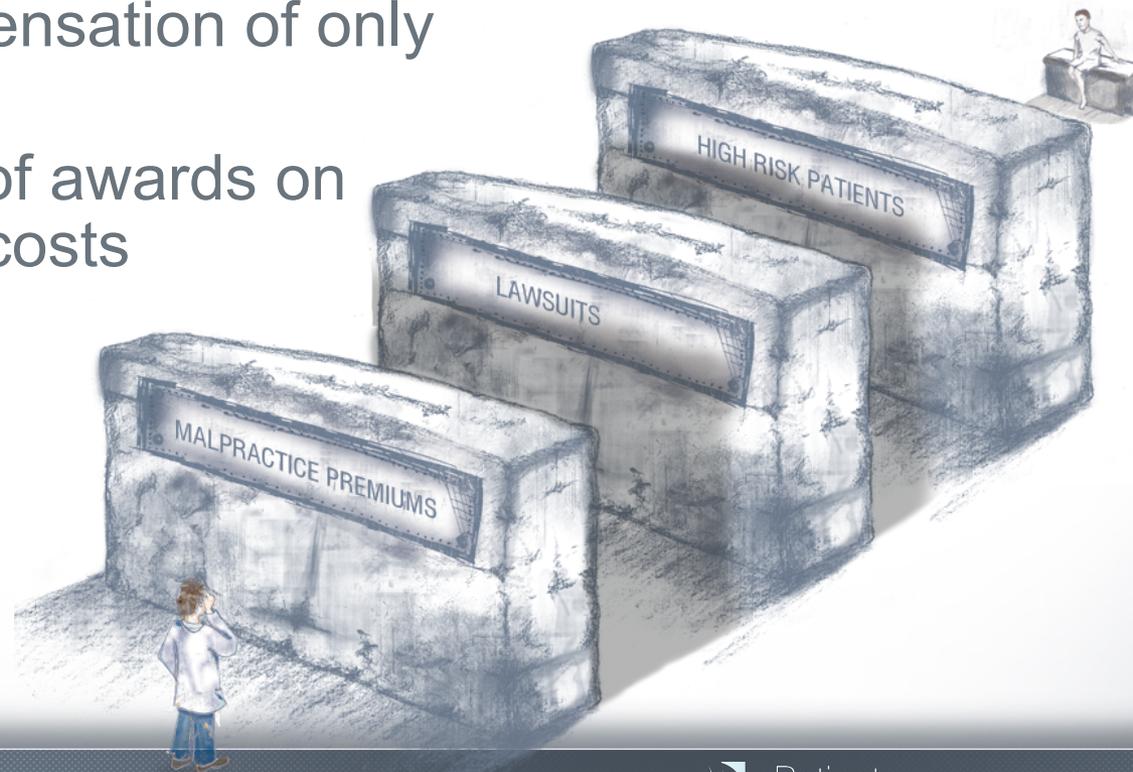
- **60% of Georgians** believe doctors order unnecessary tests **to keep from getting sued**
- **62% of Georgians** believe doctors and nurses are **under attack** from frivolous lawsuits
- **91% of Georgians** believe medical malpractice lawsuits drive up the cost of health care



2011 THG Strategic Research
Survey of GA Voters

Patients Lose in Current Litigation System

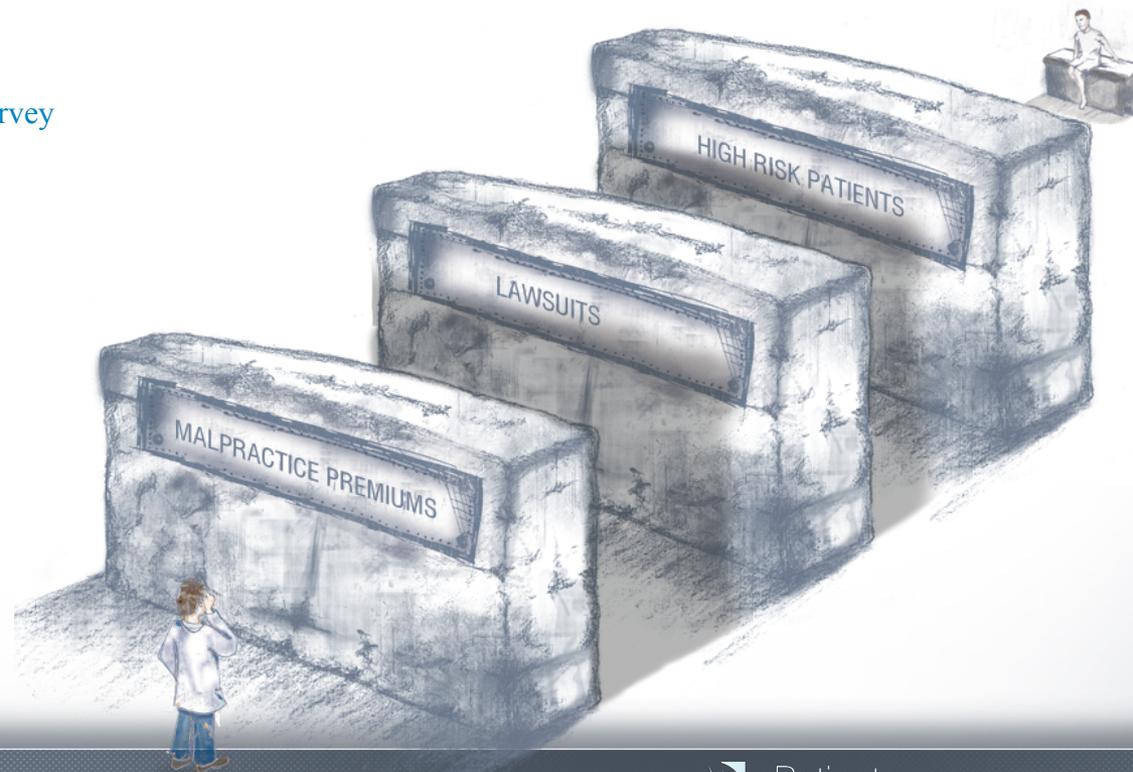
- Drives a wedge between patient and physician
- 80% of legitimate cases never get paid
- Patients receive compensation of only 30% of total premium
- Patients spend >50% of awards on legal & administrative costs
- Patients must wait 3 – 5 years
- Stress of litigation is severe



Patients Lose in Current Litigation System

“I have to view every patient as a potential plaintiff.”

– quote from a physician respondent
2010 Jackson Healthcare Physician Survey



The Solution

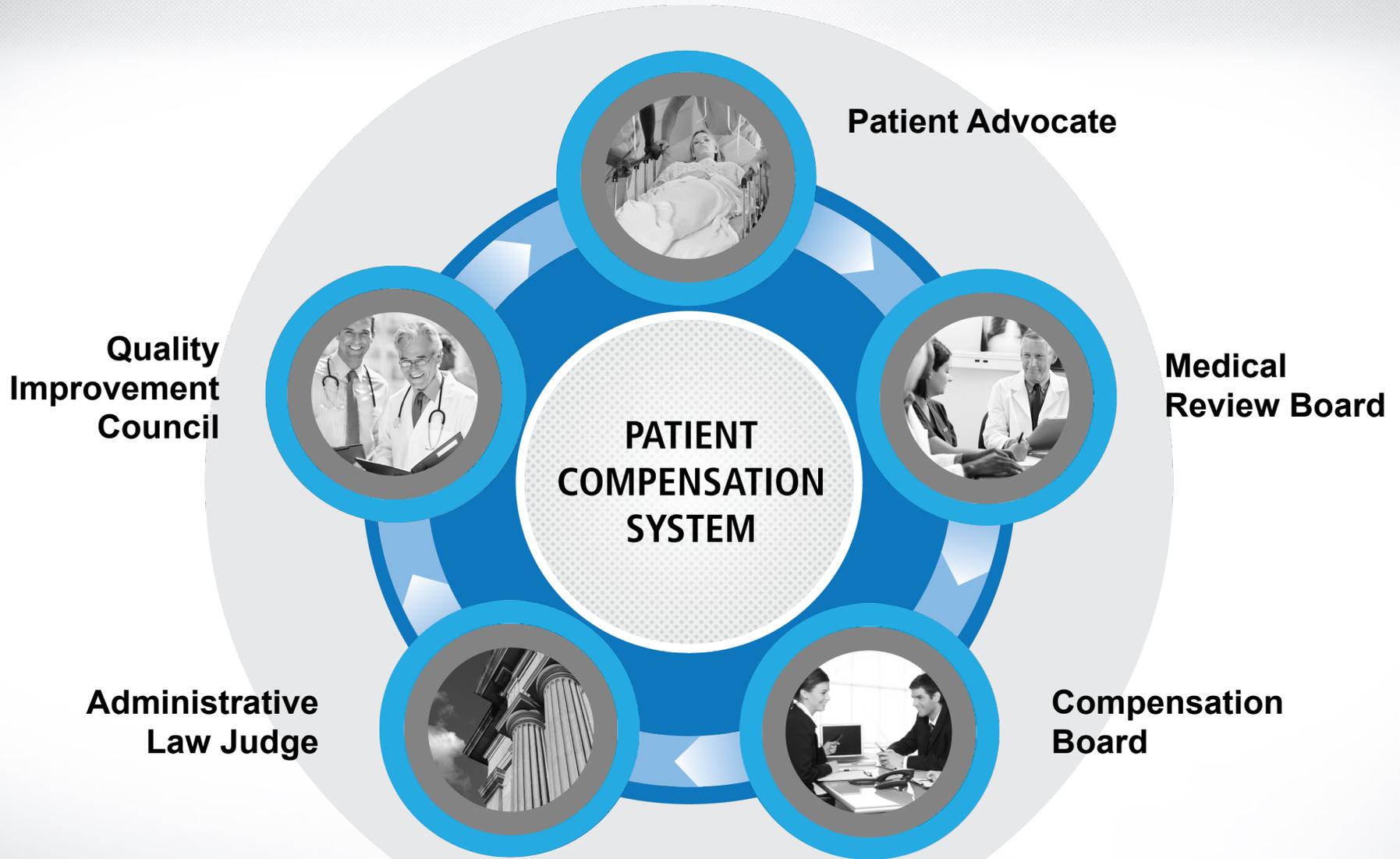
Create a **Patients' Compensation System** modeled on the Workers' Compensation System.

Workers' Compensation System

A Brief History

- Created in 1910
- Employees hesitant to sue employer
- Employers at risk for large judgments
- Workers' Compensation System allowed a trade-off:
 - Employees compensated for medical care and lost wages on a no-fault basis
 - Employers get predictable costs and protection from lawsuits

Patients' Compensation System



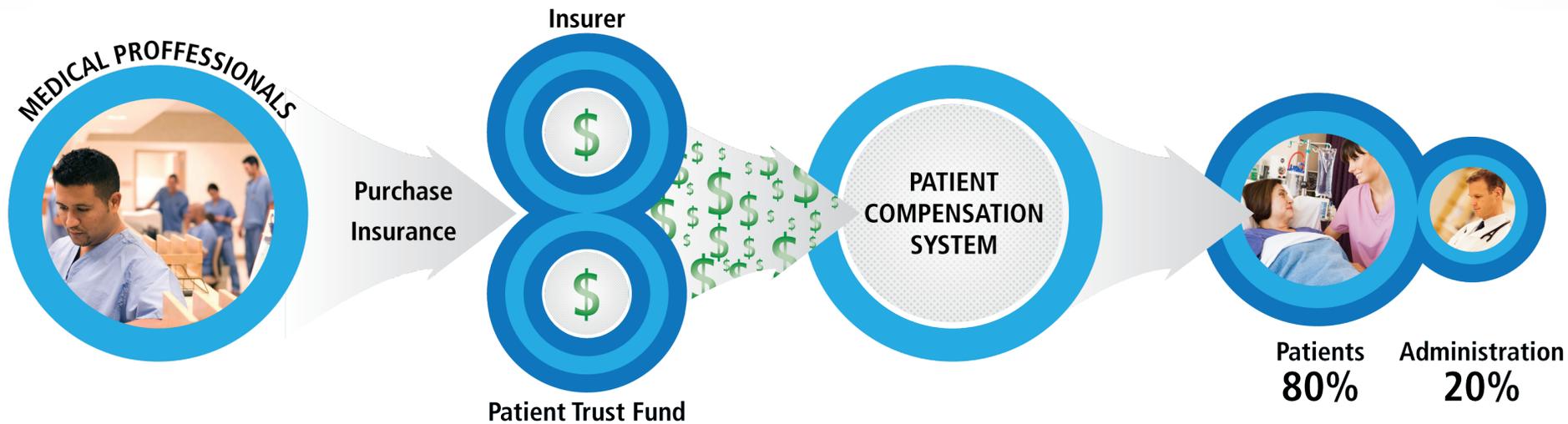
Drives Focus on Quality Care

- Quality Improvement Council developing “lessons learned” and “best practices” feedback based on collection of data
- Physicians more eager to share mistakes
- Physicians focus on medical care versus litigation concerns

Creates Physician Accountability

Physicians who do not follow the standards of care and are deemed incompetent by their peers will face disciplinary action through their state licensing board, including the possibility of losing their licenses.

Source of Funds



Funded through money in system today

More Efficient Use of Existing Funds

Current System



20%
Injured Patients

3-5 years



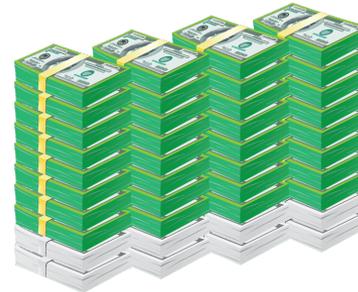
30%
Premiums

Patient Compensation System



100%
Injured Patients

180 days



80%
Premiums

Patient Benefits

- All patient complaints are **heard**
- Faster payment of claims – months vs. years
- **More** compensation to **more** patients
- Reduces patient exposure to unnecessary tests
- Increased quality: a “no fault” system allows physicians to share mistakes and evidence-based best practices
- Guaranteed compensation if injury is related to malpractice

U.S. Taxpayer Benefits

- Entirely financed through the monies providers pay for the current system
- Reduction of costs of litigation in courts
- Reduction of \$125 Billion in Medicare costs
- Reduction of \$96 Billion in Medicaid costs

Based on CMS 2009 Data

U.S. System Benefits

- Reduces healthcare costs by as much as \$650 billion per year by eliminating defensive medicine
- Increases quality of care
- Encourages adoption of medical innovations
- Creates pathway for other medical cost savings
- No cost to taxpayers

Georgia Benefits

- Savings as much as \$13.25 billion / year in healthcare costs
- Taxpayer savings as much as \$1.25 billion / year in Medicaid
- Will attract physicians to Georgia
- Creates environment for economic growth (pro-business)



Based on CMS 2009 Data

PCS is a Solution to the Current Ineffective Medical Tort System

- The Workers' Compensation System is a legal precedent
- Eliminates defensive medicine costs (as much as \$650 billion **per year**)
- More efficient use of existing funds
- Creates FAIR COMPENSATION to ALL injured patients
- **MORE** patients receive **MORE** compensation
- NO COST TO TAXPAYERS



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Questions?

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