

# **12th Accident Compensation Seminar 2009** Rising to the Challenge

**Melbourne 22nd – 24th November 2009**



Institute of Actuaries of Australia



## **Medical Indemnity – Who's Got the Perfect Cure?**

**Win-Li Toh and Dr Linda Satchwell**



## Agenda

- Australian medical indemnity landscape
- International challenges
- Measures of success
- How do we score now?



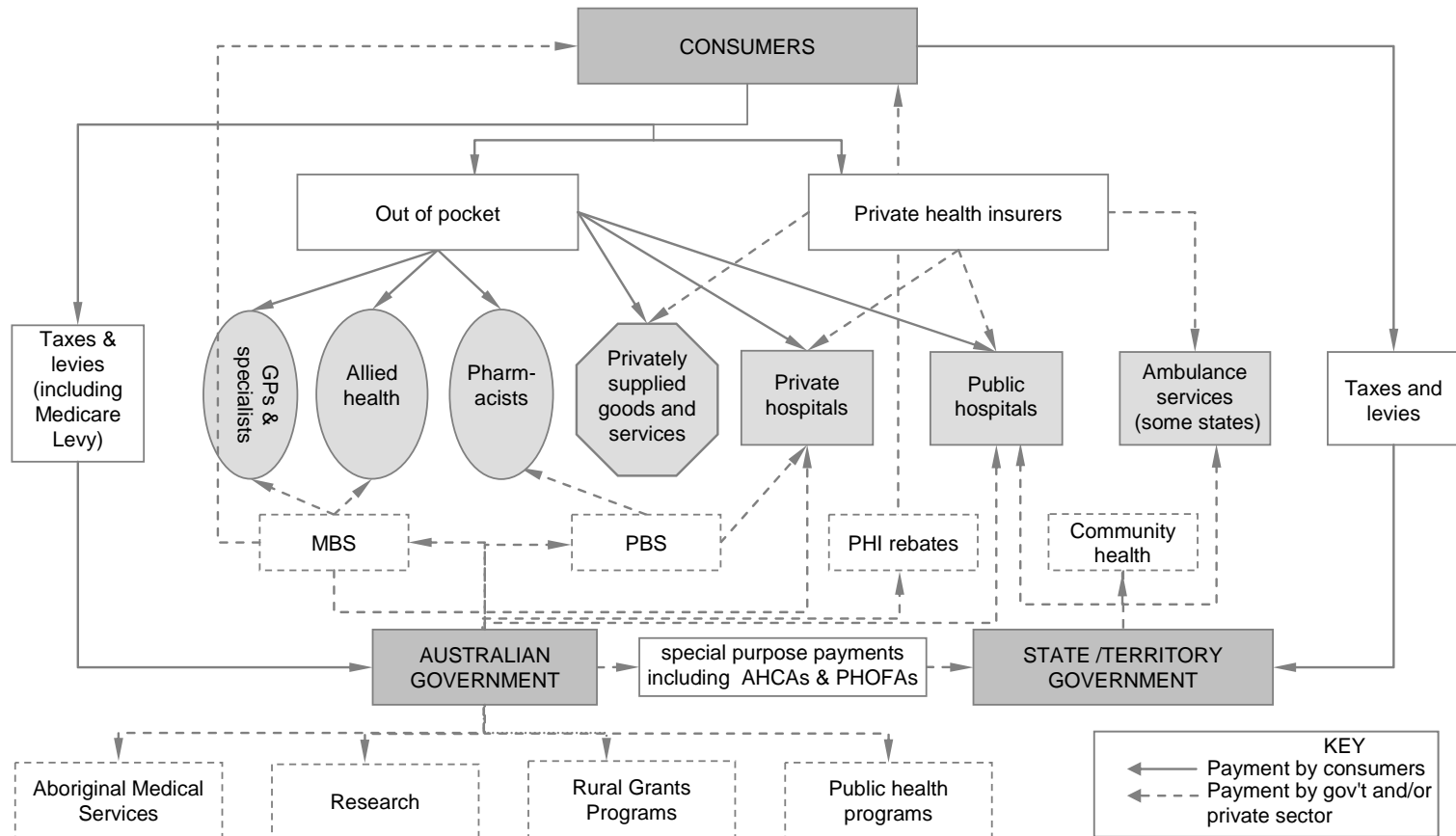
# Australian Medical Indemnity Landscape

- 1990's
- 2000
- 2001
- 2002
- 2003
- 2004
- 2005 and beyond





## Australia's Medical System





## Crisis needing cure

- Competitive environment
- Claims occurrence cover
- Capital erosion → Steep increases in premiums & call on 50% of doctors
- HIH + NSW HCLA 2001 + 9/11 + accounting standards change → UMP provisional liquidation →





## Treatment



- Federal schemes - IBNR/UMPS, ECS, HCCS, PSS, ROCS
- Medical Indemnity regulatory framework
- Tort reform including liability, damages, procedural



## International challenges

- A global crisis!..... *US, Europe, Asia*
- Responses & transferability of solutions
- Current state of play in selected countries



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## A global crisis!





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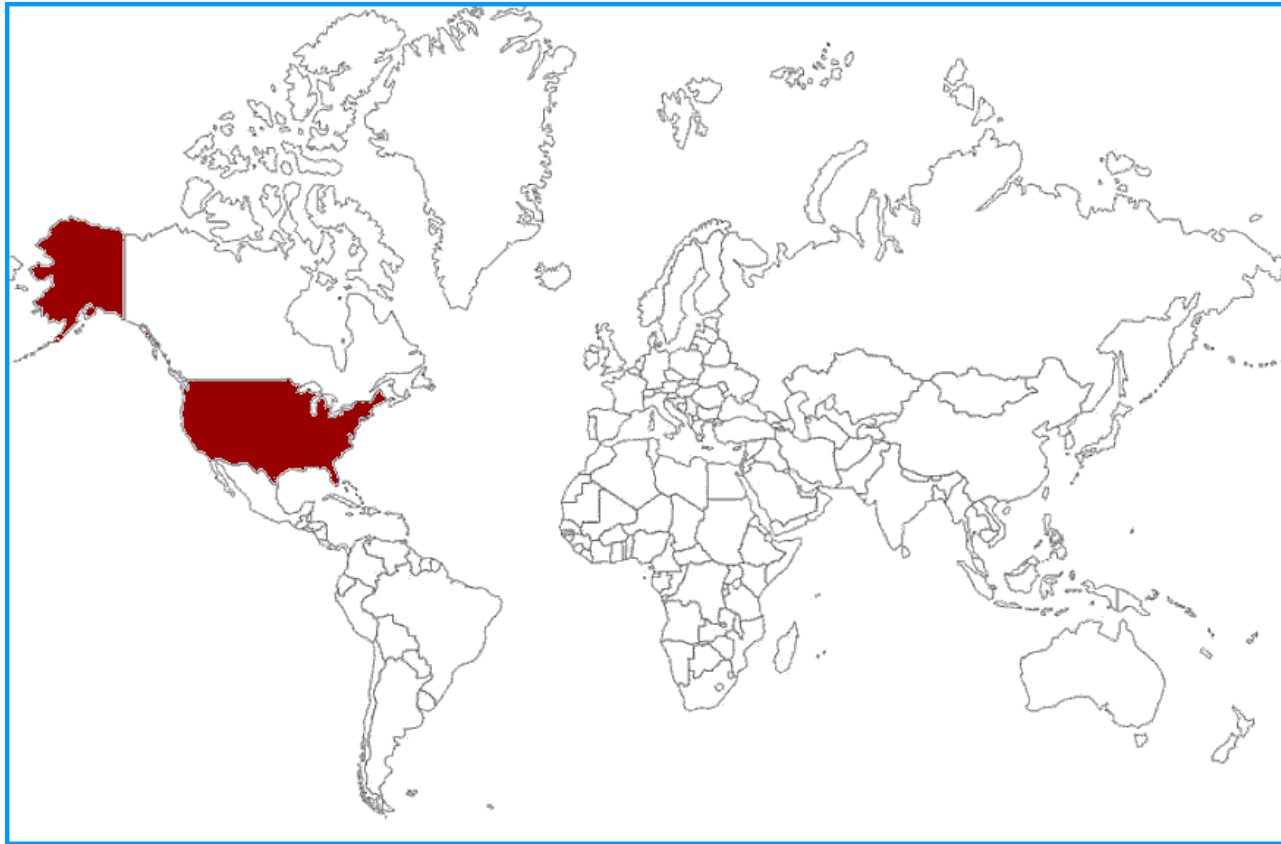
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## A global crisis!



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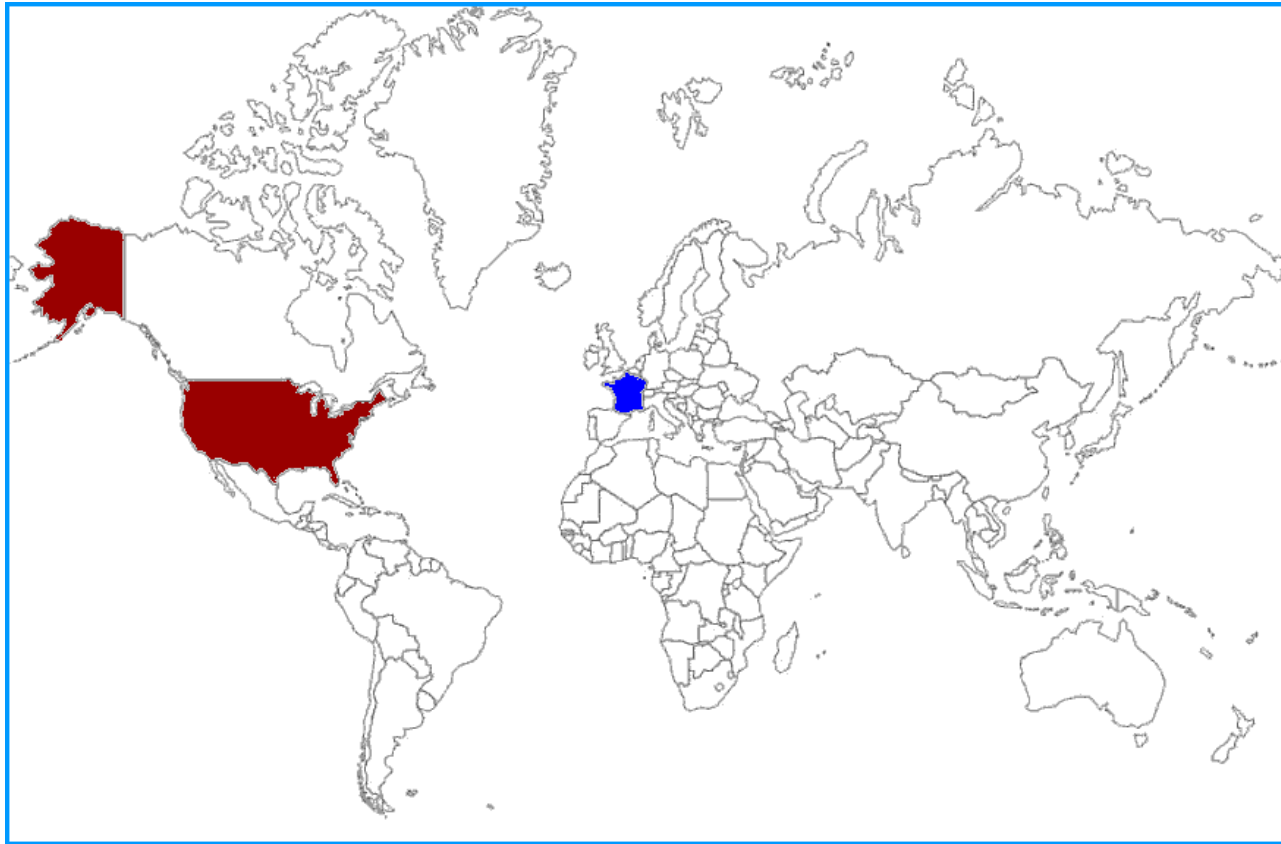
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## A global crisis!



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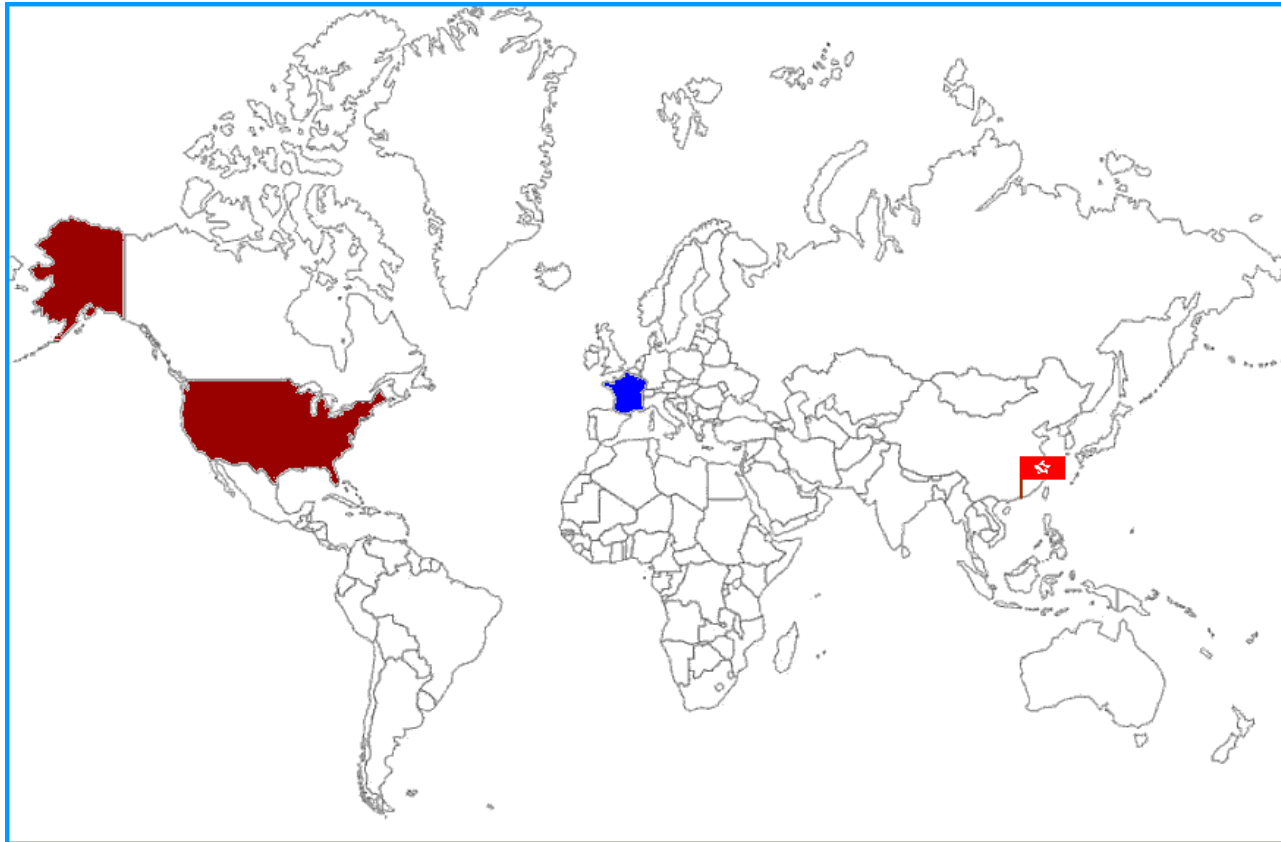
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## A global crisis!





## Effective remedies?

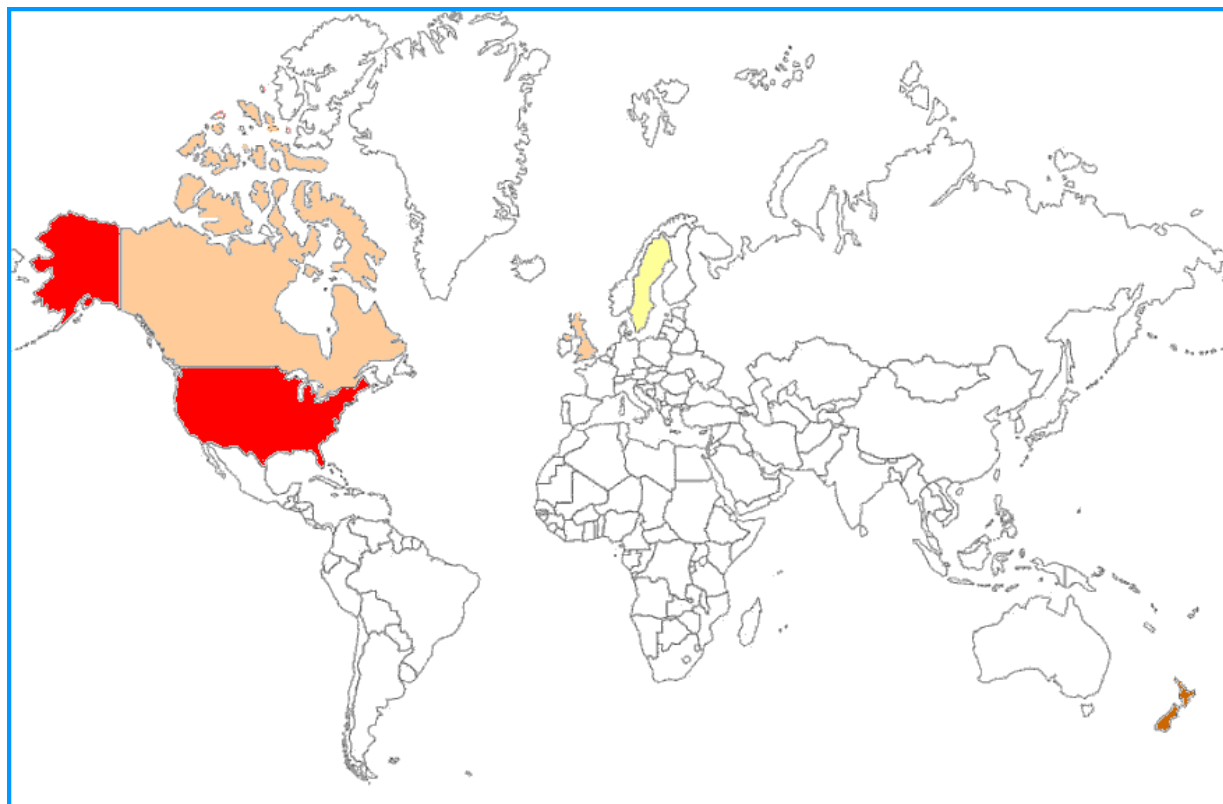
- Modifying definition of ‘negligence’
- Introducing caps
- Rearranging funding structure
- No-fault elements





## Current international state of play

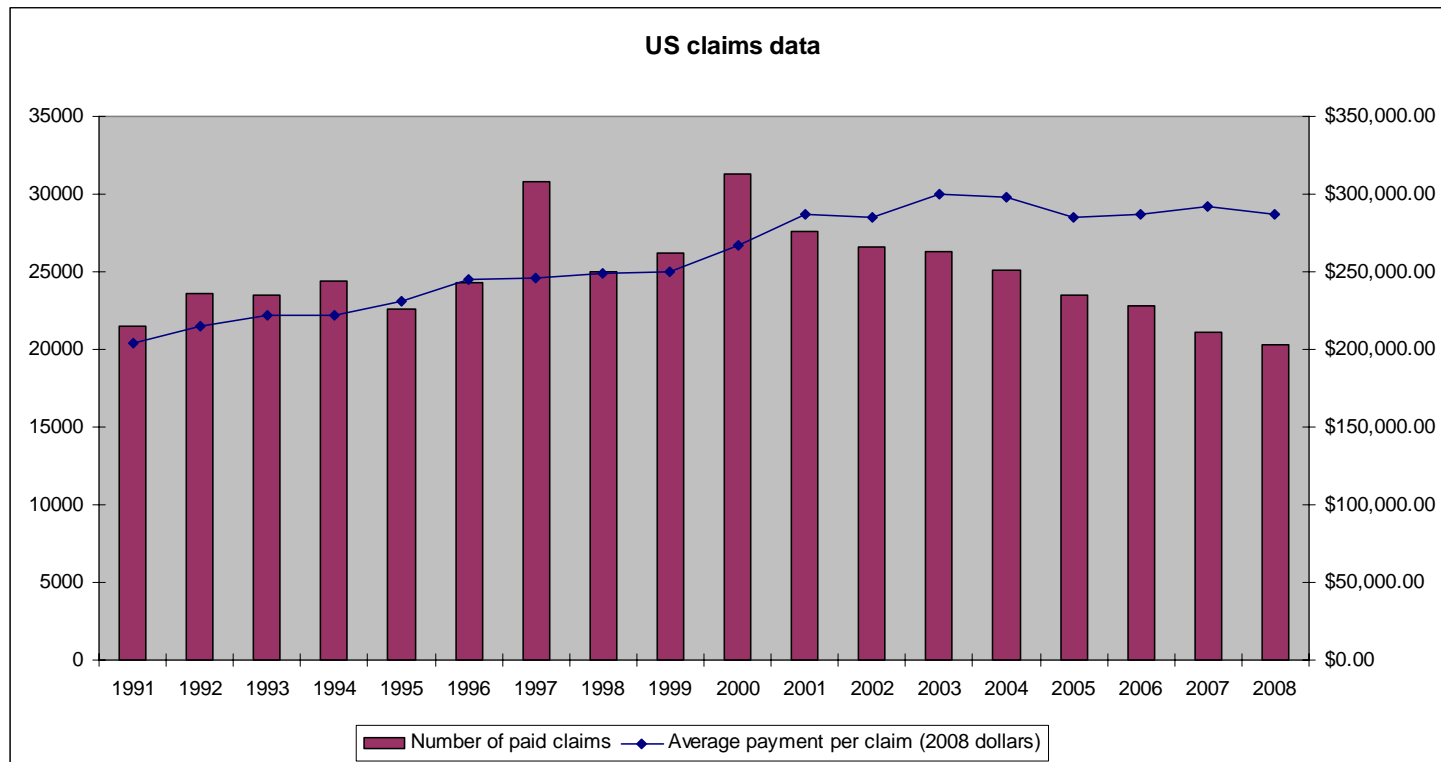
- USA
- Canada
- UK
- Sweden
- New Zealand





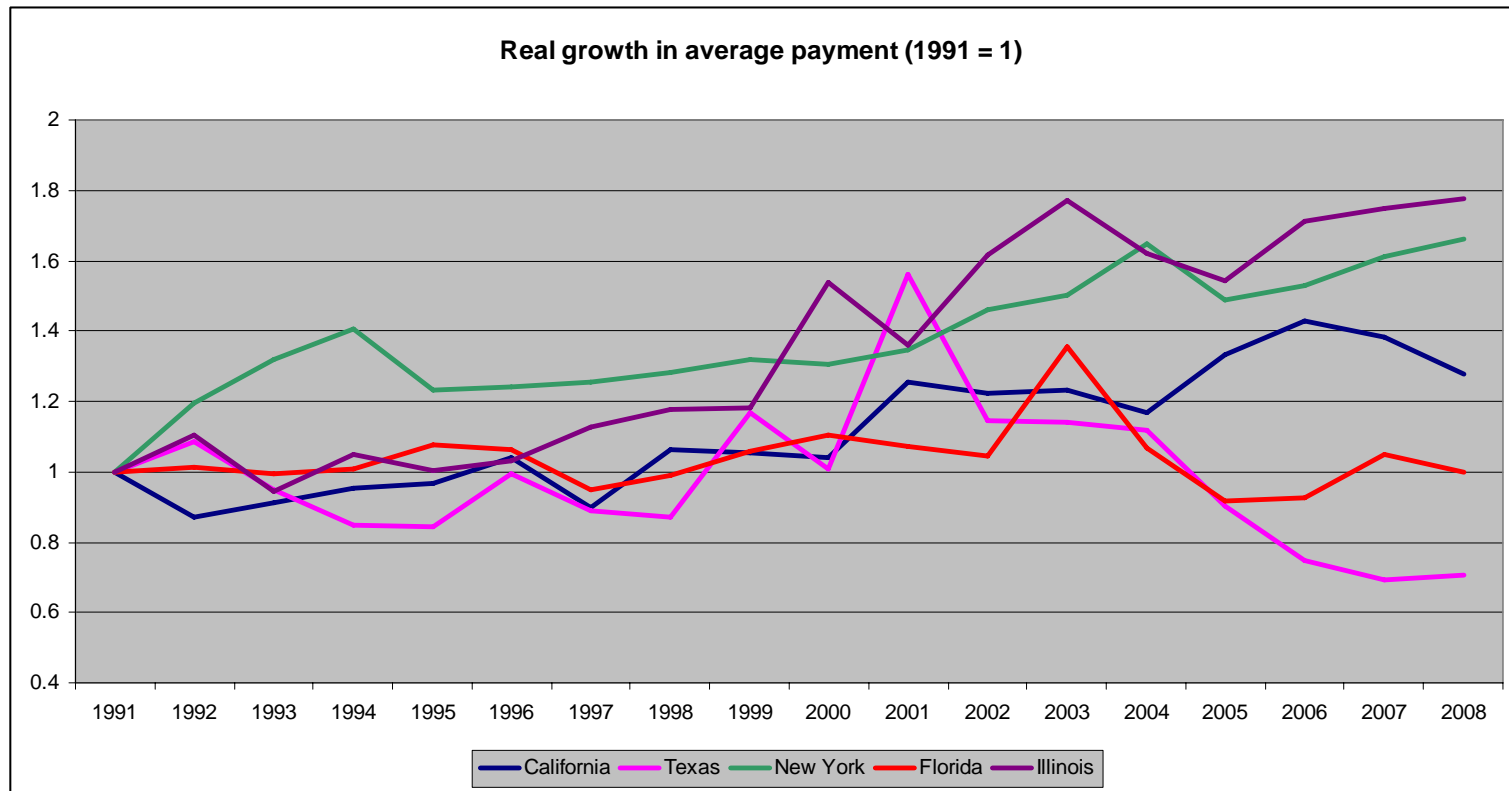
## The USA

- 2002 supply crisis spurred tort reform





## US claim trends by state





## The USA

- Influenced heavily by inflation and magnitude of punitive damages
- Large inequities from tort system
- Evidence of ‘defensive medicine’







## Canada

- One mutual covers 95% of doctors
- Occurrence-based cover, no caps
- Fee subsidies for higher risk specialties
- Punitive damages rarely awarded
- Single provider ability to provide consistent risk management education
- No-fault considerations rejected in 2005 due to prohibitive cost



## UK

- Common law tort-based
- NHS covers doctors in public practice
- Private cover by insurers/MDOs
- Affordability stretched by rising claim costs
- NHS & MDOs carry out risk management activities



## Sweden

- Widely held up as model system
- No fault, limited damages under civil law
- Health care a public sector responsibility
- Efficient and affordable
- However...success dependent on non-litigious culture and comprehensive social welfare system



## New Zealand

- Administered under ACC
- ‘No fault’ requirement generally
- Ongoing payments rather than lump sum, limited recourse to damages
- Cost hikes (2001: \$301M, 2009: \$2,167M)
- Government signaled intention to open ACC accounts to privatisation



## Measures of success

- Appropriate compensation
- Timely compensation
- Mandatory cover
- Available and affordable cover
- Accountability & encouraging good medical practice
- Facility for apology
- Encouraging good monitoring

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## Australia's Scorecard

An Australian story





## Australia's Scorecard

- Appropriate compensation • 7/10
- Timely compensation • 6/10
- Mandatory cover • 9/10
- Available & affordable cover • 8/10
- Accountability & encouraging good medical practice • 7/10
- Facility for apology • 9/10
- Encouraging good monitoring • 3/10

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“The time to repair the roof is when the sun is shining”. *John F. Kennedy*