

Physicians on Medical Liability Reform Options

An Online Quantitative Research Study

Wednesday, December 5, 2012



Methodology

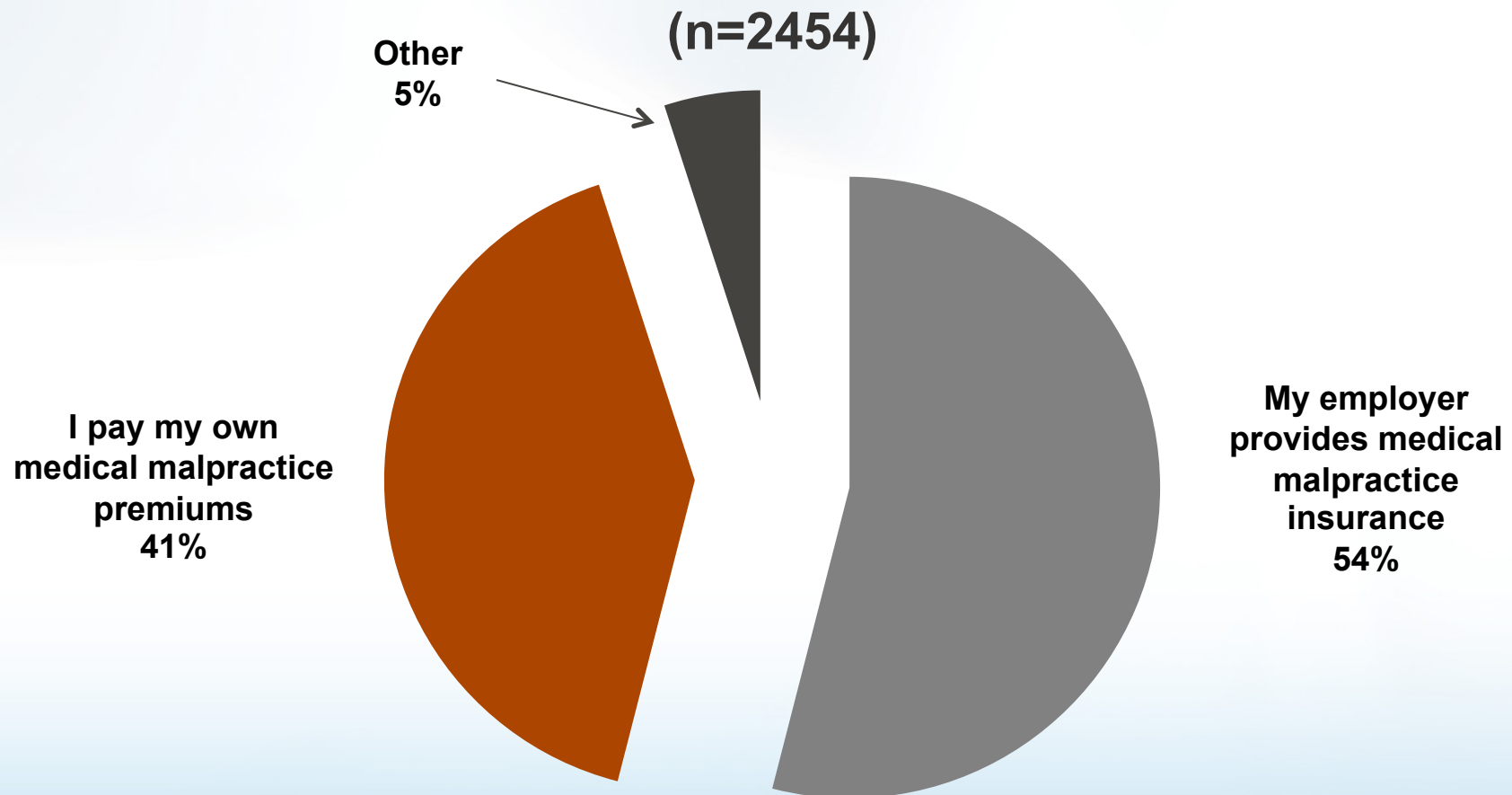


- ⦿ Online survey to physicians
- ⦿ In the field from August 31 - October 31, 2012
- ⦿ 1,548 physicians completed the survey
- ⦿ Error range at the 95% confidence level: +/- 2.5%

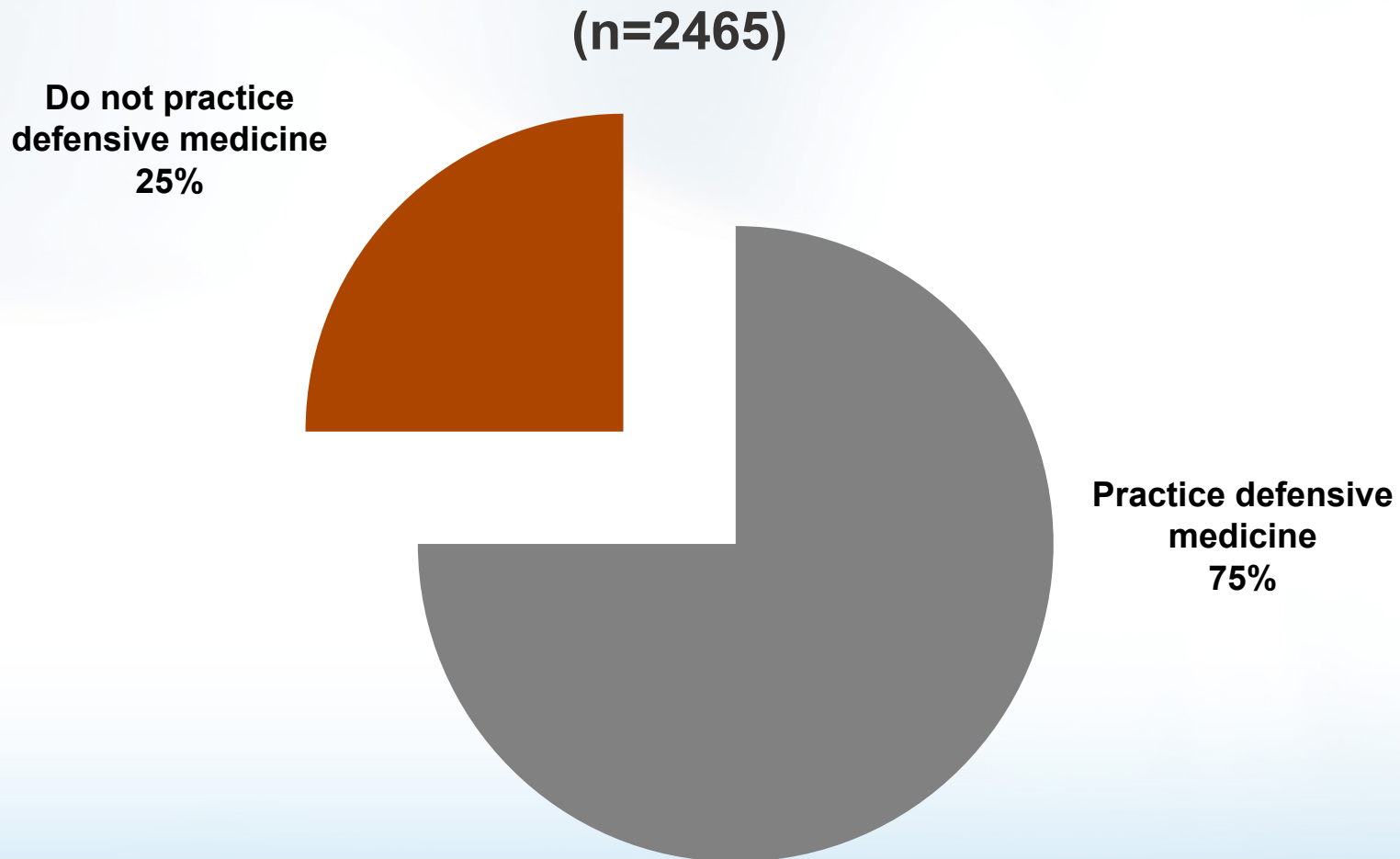
Summary

- ⦿ The number one reason doctors practice defensive medicine is to avoid being named in a lawsuit
- ⦿ Even though caps on damages ranks high as a potential solution in doctors minds, it has not significantly affected the practice of defensive medicine in the states in which it has been implemented
 - 39% of doctors who practice defensive medicine report the enactment of caps in their states
 - 77% report no change or an increase in the amount of defensive medicine they practice with caps in place
- ⦿ Disclosure, Apologize and Offer has been enacted in Massachusetts and proposed in Oregon
 - About half of the doctors in each state are aware
 - 90% of doctors in Massachusetts and 89% in Oregon say it will not change or will increase their practice of defensive medicine
 - Ranked last as a reform solution to the defensive medicine problem
- ⦿ Administrative Compensation System ranks highest in the ability to curb defensive medicine practices according to doctors surveyed.

How Medical Malpractice Insurance Premiums are Paid



Percentage of Respondents Who Practice Defensive Medicine



Note on Survey Methodology



- ⦿ The remaining questions in the survey were asked of those doctors who indicated they practice defensive medicine.
- ⦿ All of the data from this point forward is weighted by physician specialty.

Reasons for Practicing Defensive Medicine

In previous surveys we've done, doctors have cited the following reasons they and their peers practice defensive medicine. Which of the following describe your reasons for practicing defensive medicine? Please choose all that apply.	(n=1,599)
To avoid being named in a potential lawsuit	78%
Defensive medicine has become the new "standard of care".	61%
Patient or family demands that everything humanly possible be done.	59%
To adhere to the standard of perfection to which patients hold doctors. Any bad result is the doctor's fault.	53%
I do not want to risk my personal finances.	52%
Fear of missing something. I don't want to make a mistake. I don't want to be wrong.	52%
To protect my good name: I do not wish to risk my reputation.	48%
I have been named in a medical malpractice lawsuit, and to not wish to repeat the experience.	41%
Colleagues have been named in (a) medical malpractice lawsuit(s), and I saw what they went through to defend themselves. I don't want that to happen to me.	41%
Peer pressure. Other doctors of my specialty are doing it, and I'm afraid I'll look "deficient" by comparison if I do not.	24%
I was trained to practice defensively.	19%
To improve public or private patient satisfaction scores.	17%
To save time.	11%
Defensive medicine is good medicine. I'm protecting my patients by doing everything I can for them.	7%

One Main Reason for Practicing Defensive Medicine

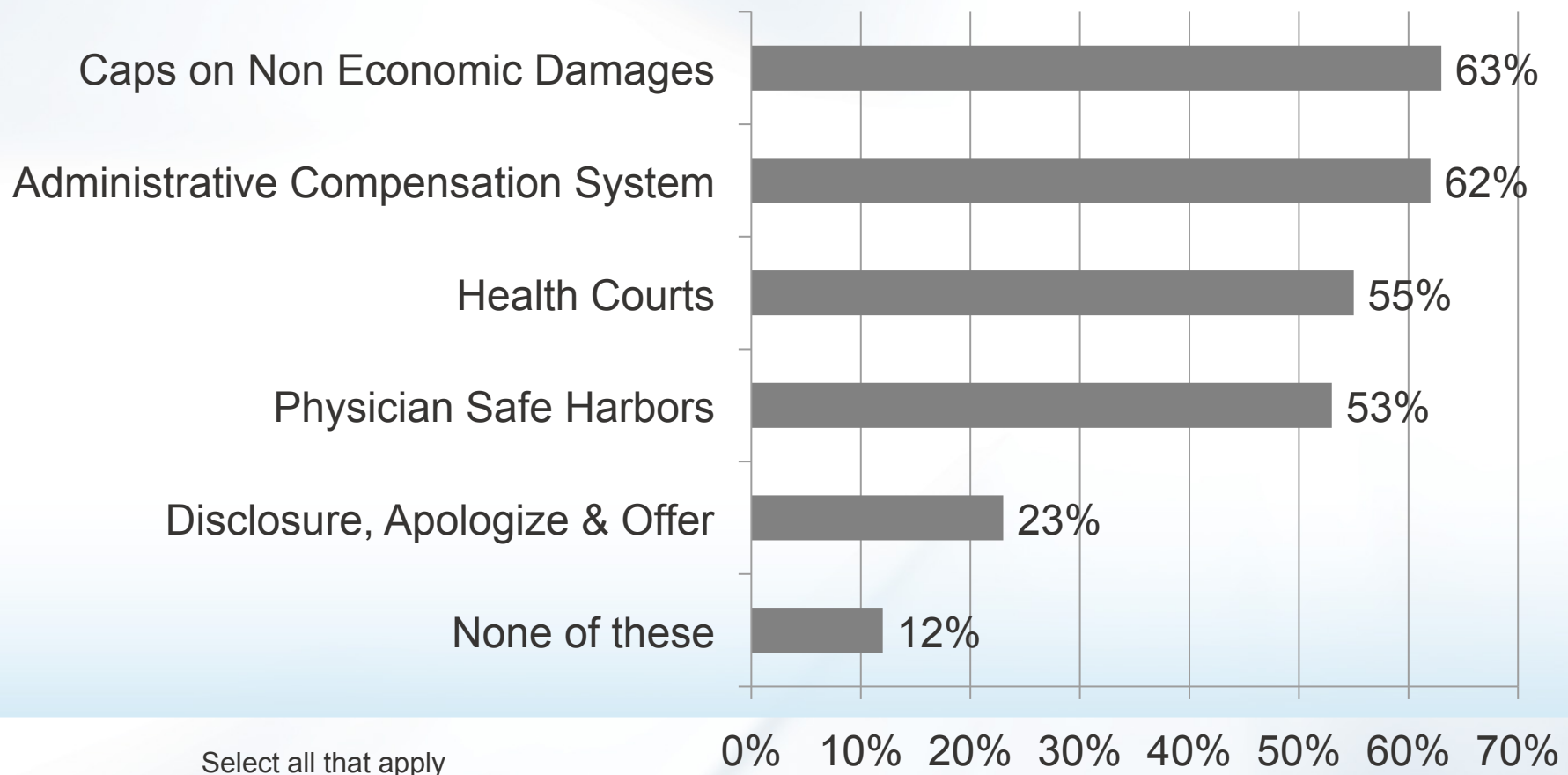


The reasons you cited for practicing defensive medicine appear below. Of those, which is the main reason you practice defensive medicine?	(n=1,599)
To avoid being named in a potential lawsuit	36%
Defensive medicine has become the new “standard of care”.	12%
I have been named in a medical malpractice lawsuit, and to not wish to repeat the experience.	11%
Fear of missing something. I don’t want to make a mistake. I don’t want to be wrong.	10%
To adhere to the standard of perfection to which patients hold doctors. Any bad result is the doctor’s fault.	9%
Patient or family demands that everything humanly possible be done.	8%
I do not want to risk my personal finances.	4%
To protect my good name: I do not wish to risk my reputation.	3%
Colleagues have been named in (a) medical malpractice lawsuit(s), and I saw what they went through to defend themselves. I don’t want that to happen to me.	3%
Peer pressure. Other doctors of my specialty are doing it, and I’m afraid I’ll look “deficient” by comparison if I do not.	1%
I was trained to practice defensively.	1%
To improve public or private patient satisfaction scores.	1%
Defensive medicine is good medicine. I’m protecting my patients by doing everything I can for them.	1%

Reforms that Would Successfully Reduce the Practice of Defensive Medicine

Respondents were provided with a description of five medical liability reforms and were asked to choose all of those that would successfully reduce the amount of defensive medicine practiced.

(n=1,595)

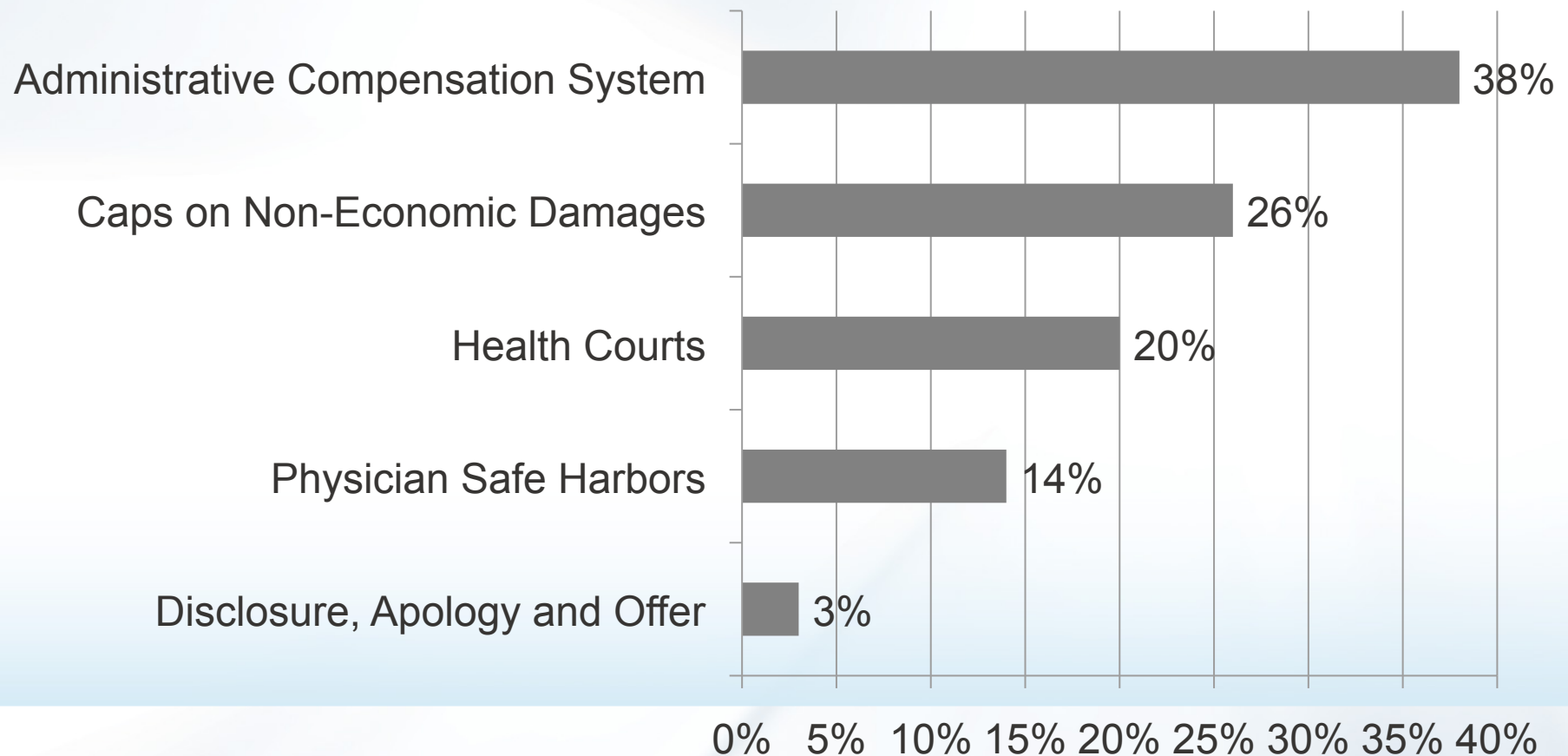


Ranking: Reforms Likely to Reduce Defensive Medicine



Respondents were then presented with a list of the medical liability reforms that they had chosen as effective at curbing defensive medicine and were asked to rank them from most effective to least.

By First Place Ranking



Ranking of Medical Liability Reforms from Most Effective to Least in Reducing Defensive Medicine



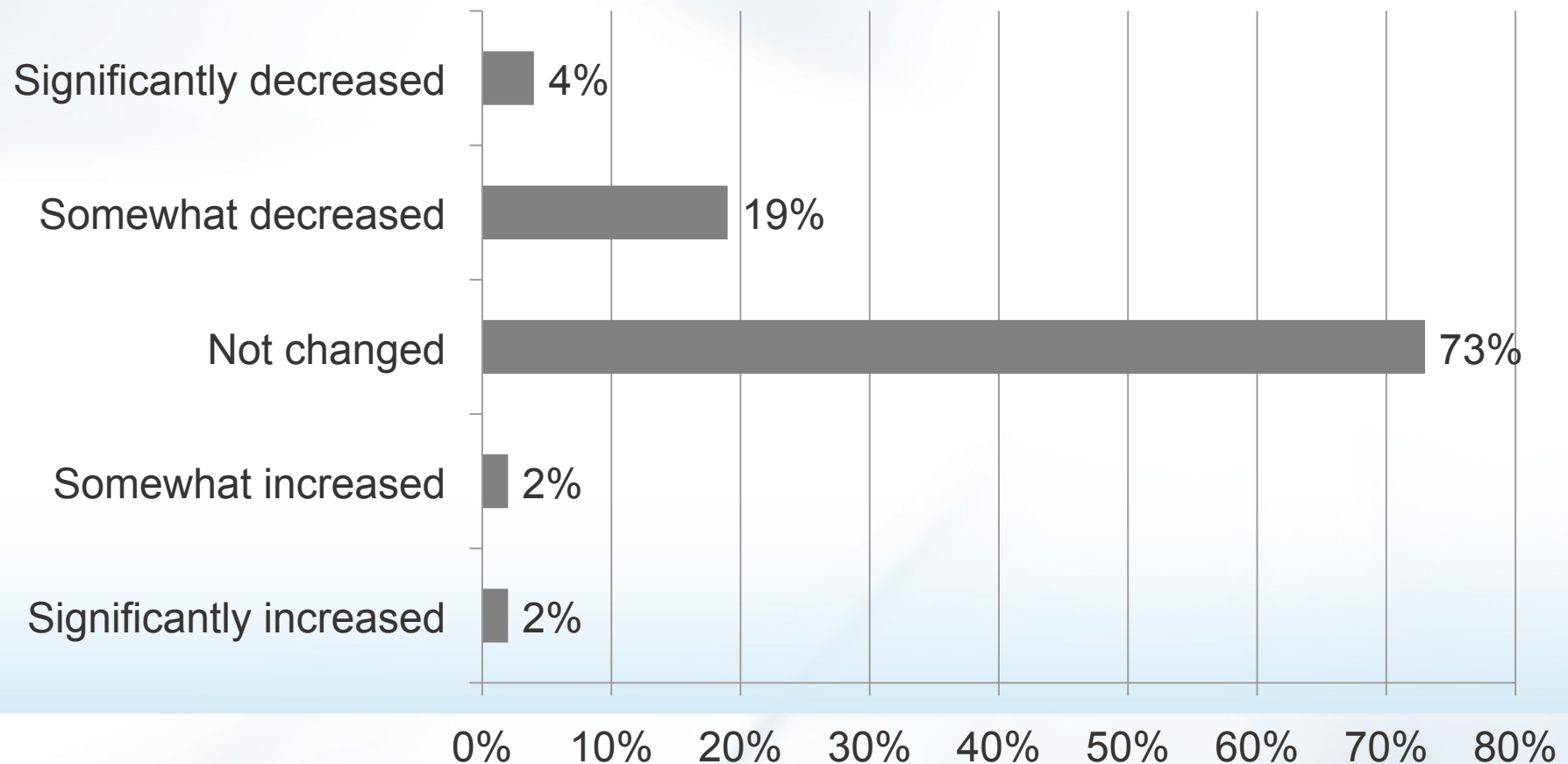
Reform Solution	% of Respondents Who Think It Will Be Effective in Reducing Defensive Medicine	Number of Respondents Ranking It 1	Number of Respondents Ranking it 1 or 2	Ranking Score	Average Rank
Administrative Compensation System	62%	494	708	3918	1.84
Caps on Non-Economic Damages	63%	332	627	3571	2.09
Health Courts	55%	253	537	3071	2.11
Physician Safe Harbors	53%	183	419	2677	2.39
Disclosure, Apologize and Offer	23%	33	91	892	3.31

Reforms Implemented

Reforms implemented in respondent states	(n=1,599)
Caps on non-economic damages: Limit the amount of money that a plaintiff can take as an award for non-economic losses, or “pain and suffering”	29%
Certificate of merit: Requires a plaintiff to present, at the time of filing the claim or soon thereafter, an affidavit certifying that a qualified medical expert believes that there is reasonable and meritorious basis for the suit.	16%
Aggressive statutes of limitation / repose: Limits the amount of time a patient has to file a claim.	15%
Pre-trial screening panels: Panel reviews a malpractice case at an early stage and provides an opinion about whether a claim has sufficient merit to proceed to trial. A negative opinion may not bar a case from going forward, but can be introduced by the defendant as evidence at trial.	12%
Joint-and-several liability reform: In cases involving more than one defendant, limits the amount of financial liability of each defendant to the percentage fault that the jury allocates to that defendant.	7%
Attorney fee limits: Limits the amount (percent or dollar amount) an attorney may take in a contingent- fee arrangement	5%
None have been implemented, or those that had been implemented were later repealed	16%
Don't know	40%

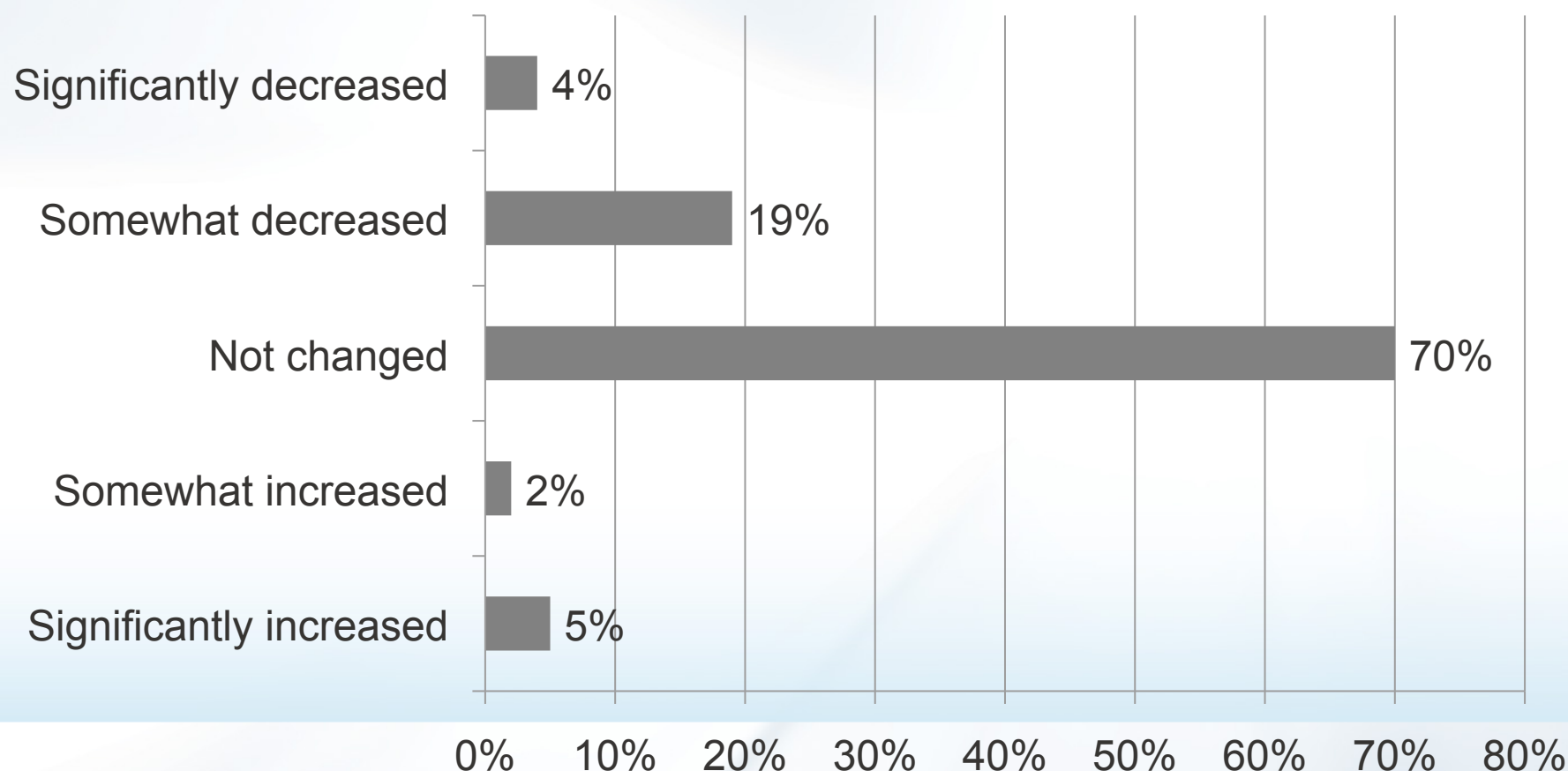
How Caps Have Affected the Practice of Defensive Medicine

(n=459)



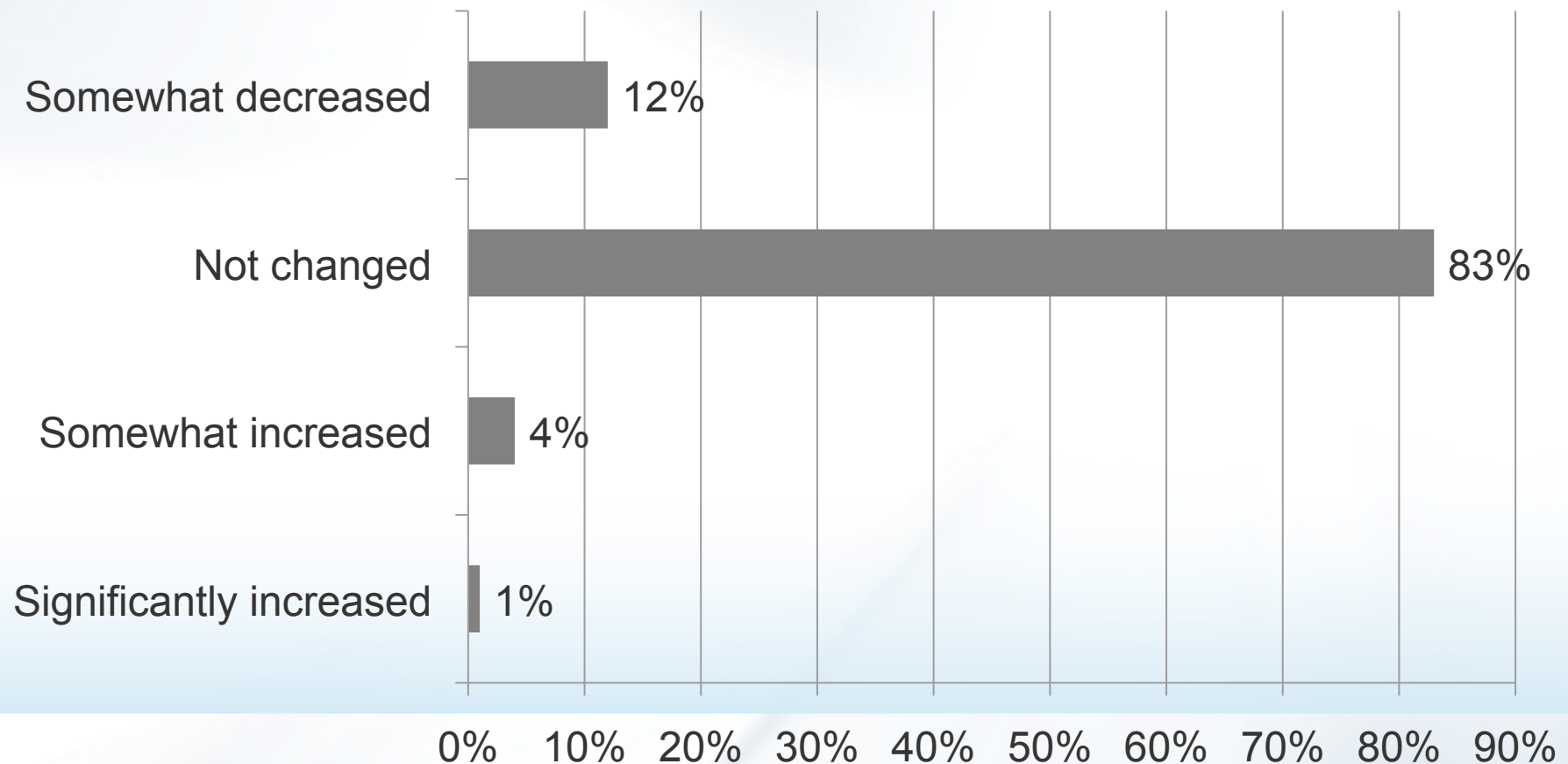
How Pre-Trial Screening Panels Have Affected the Practice of Defensive Medicine

(n=184)



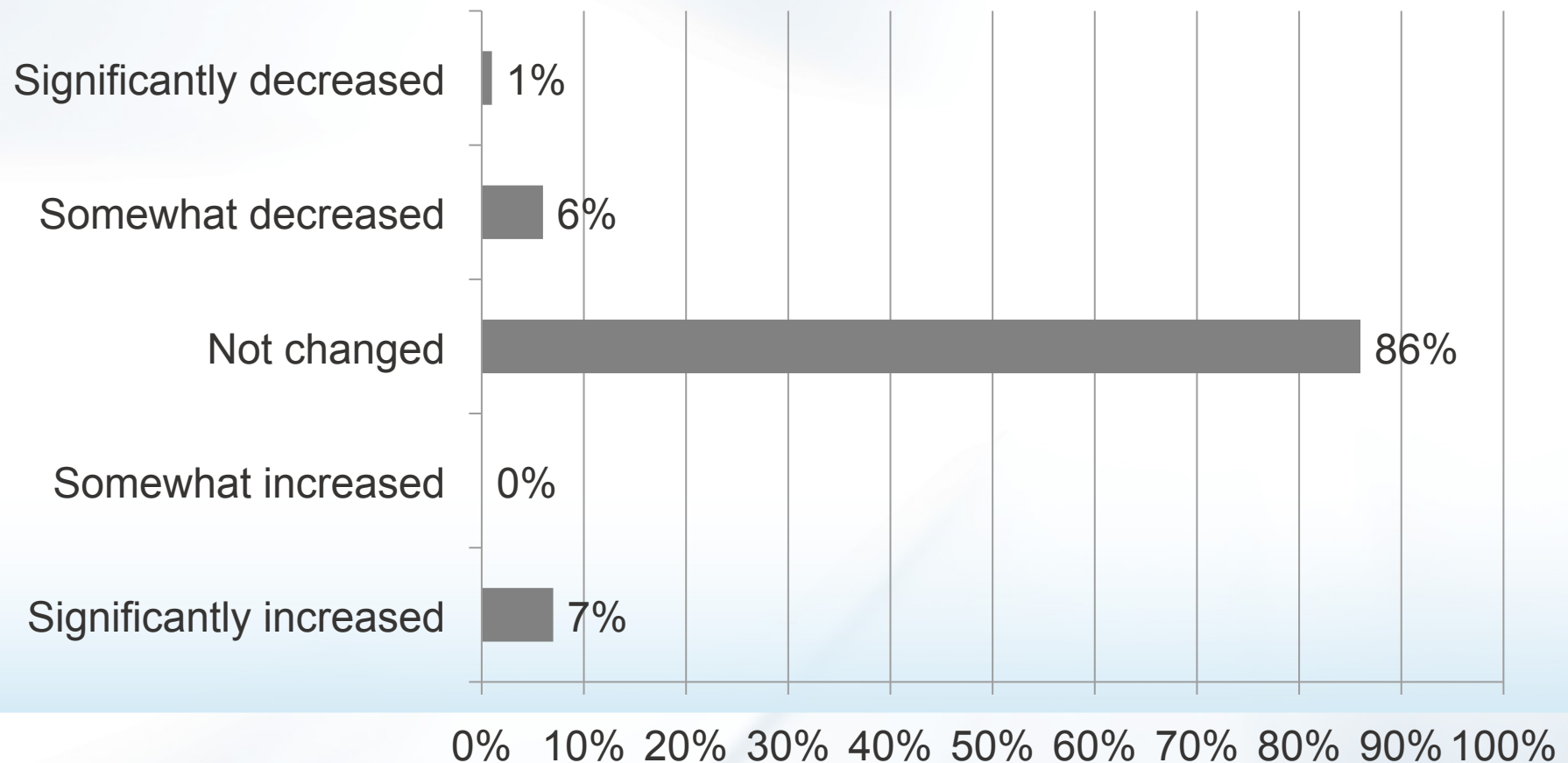
How Certificates of Merit Have Affected the Practice of Defensive Medicine

(n=258)



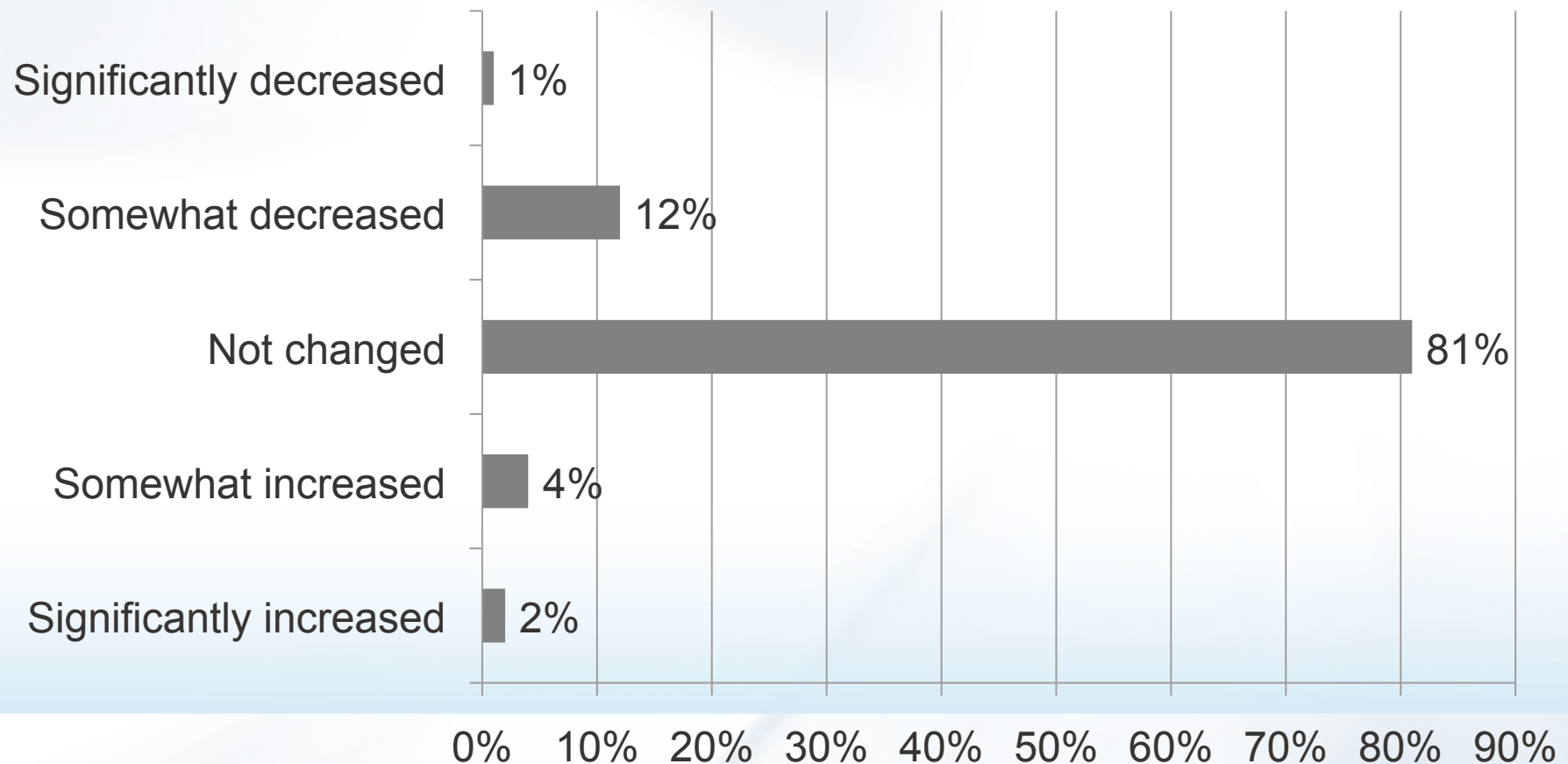
How Attorney Fee Limits Have Affected the Practice of Defensive Medicine

(n=72)



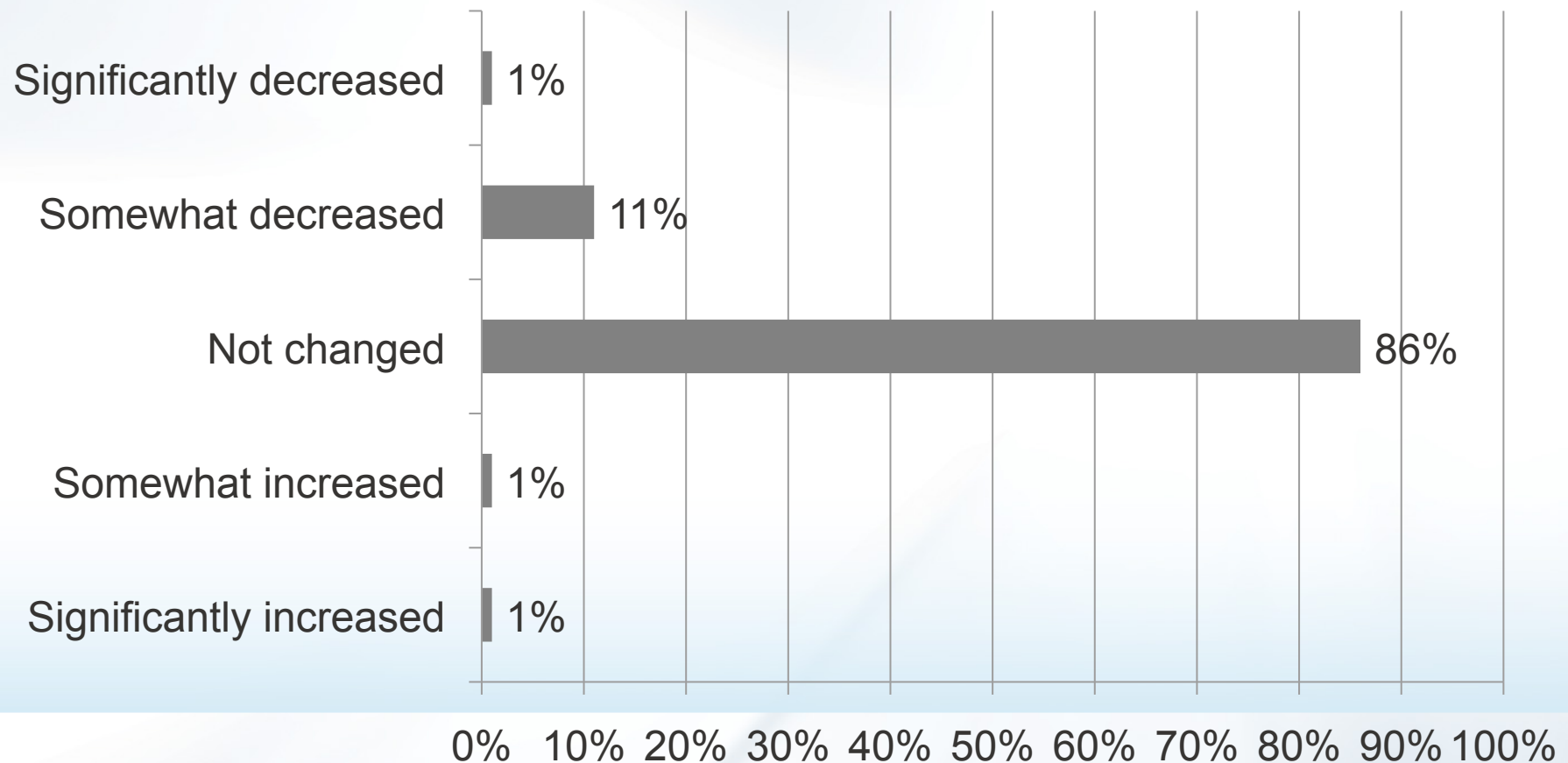
How Joint and Several Liability Reforms Have Affected the Practice of Defensive Medicine

(n=115)



How Aggressive Statutes of Limitation Have Affected the Practice of Defensive Medicine

(n=241)



State in which Respondents Practice

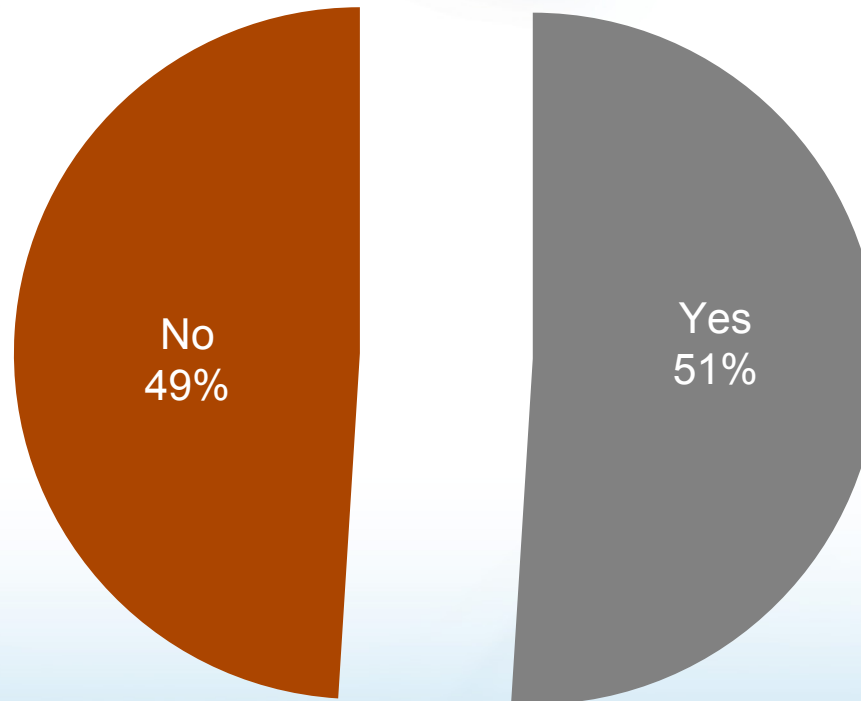
State	Frequency	Percentage
Florida	155	10%
California	135	8%
New York	99	6%
Texas	91	6%
Illinois	94	6%
Pennsylvania	87	5%
Georgia	66	4%
Massachusetts	61	4%
North Carolina	48	3%
New Jersey	45	3%
Ohio	45	3%
Arizona	43	3%
Michigan	26	2%
Maryland	49	3%
Missouri	24	2%
Indiana	38	2%
Washington	39	2%
Virginia	33	2%
Oregon	30	2%
Tennessee	19	1%
Alabama	29	2%
Kentucky	18	1%
New Mexico	31	2%
Wisconsin	24	2%
Colorado	17	1%

State	Frequency	Percentage
Louisiana	17	1%
Mississippi	16	1%
Iowa	14	1%
Minnesota	16	1%
New Hampshire	14	1%
Kansas	13	1%
Utah	17	1%
South Carolina	18	1%
Nevada	10	1%
Montana	8	.5%
Nebraska	8	.5%
Oklahoma	11	1%
West Virginia	8	.5%
Delaware	9	1%
Arkansas	7	.4%
North Dakota	3	.2%
Rhode Island	14	1%
Hawaii	5	.3%
Idaho	4	.2%
Maine	2	.1%
Vermont	3	.2%
Wyoming	5	.3%
Alaska	1	.1%
Washington DC	1	.1%

(n=1599)

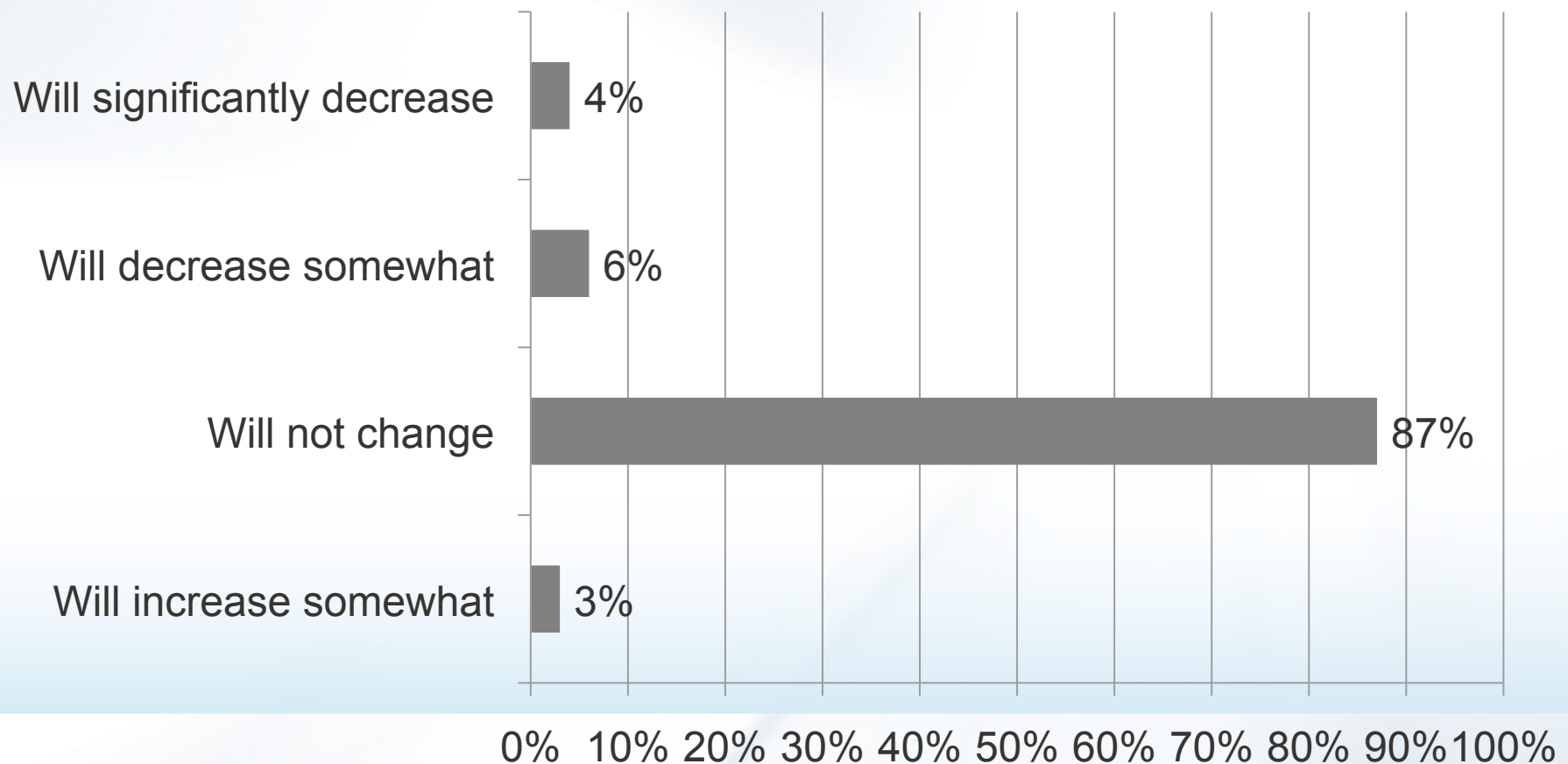
Massachusetts: Aware of Disclosure, Apologize & Offer

(n=61)



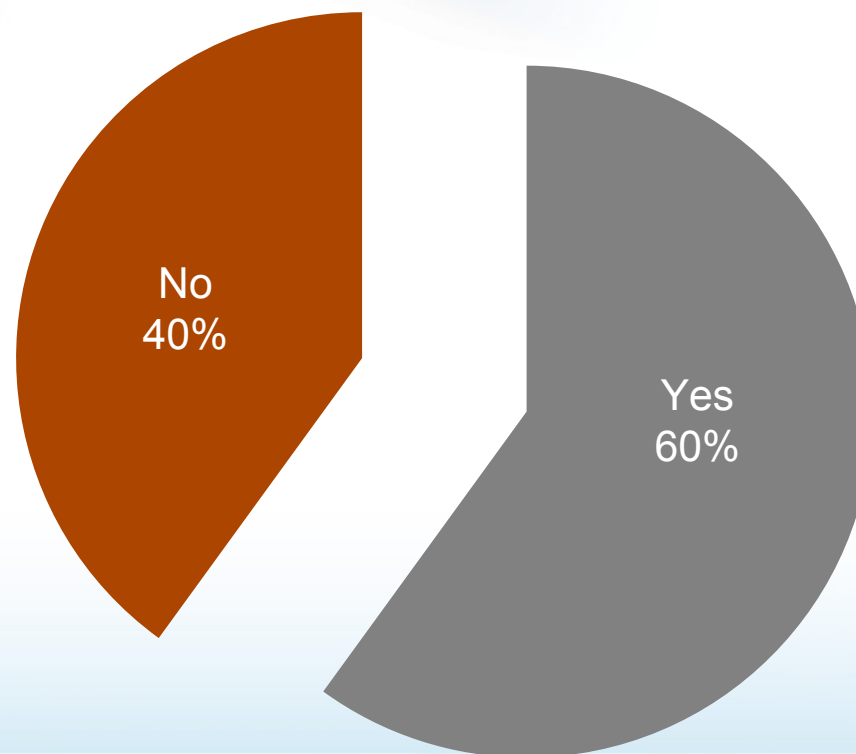
Massachusetts: How Will Disclosure, Apologize & Offer Affect Practice of Defensive Medicine

(n=61)



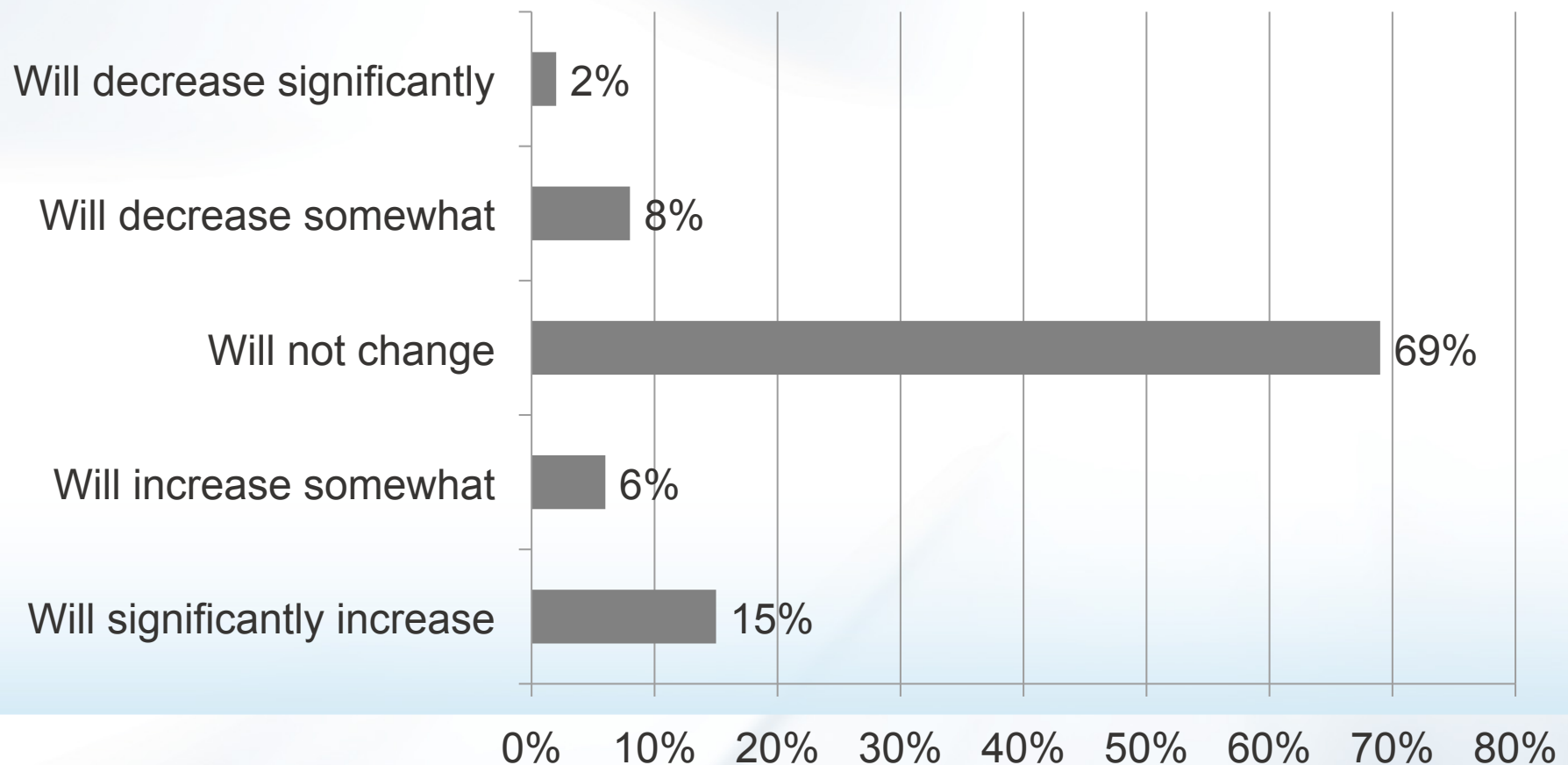
Oregon: Aware of Disclosure, Apologize & Offer Plan

(n=30)



Oregon: How Would Disclosure, Apologize & Offer Affect Practice of Defensive Medicine

(n=30)



Respondent Statistics

Ownership of Practice

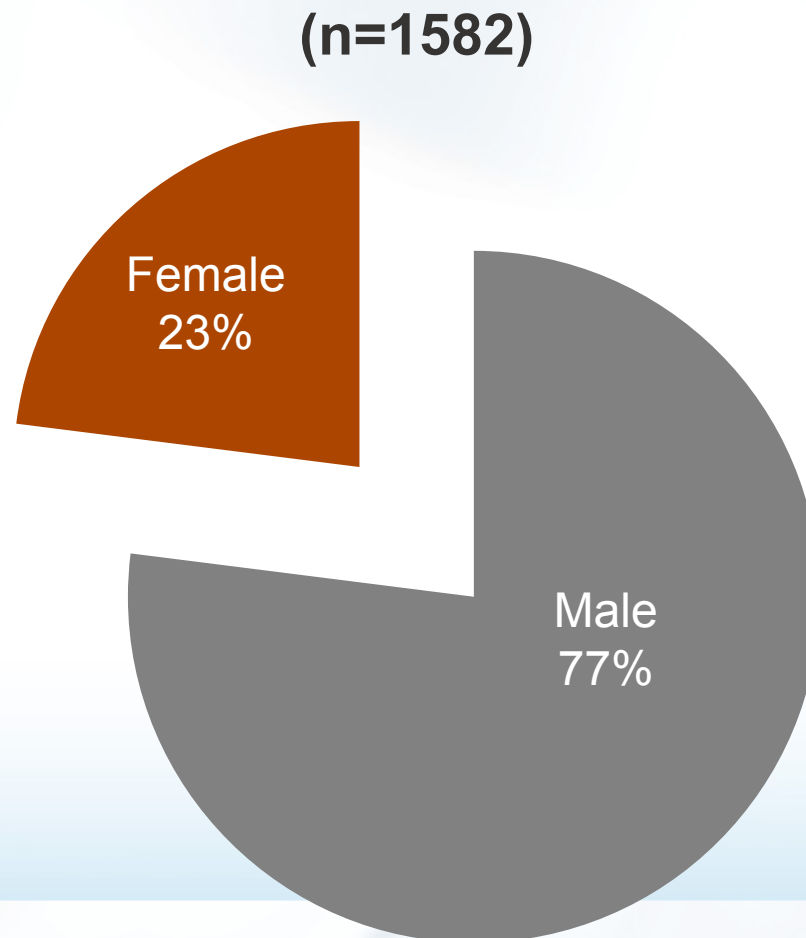
	(n=1596)
Single specialty practice; I have an ownership stake	19%
Solo practice; I am the owner	16%
W-2 employee of hospital or health system	14%
Hospital or health system owned multi specialty practice	14%
Independent contractor or LT	10%
Hospital or health system owned single specialty practice	8%
Physician owned single specialty practice; work for the practice, but no ownership stake	8%
Multi-specialty practice; have ownership stake	6%
Physician owned multi-specialty practice; work for practice, no ownership stake	4%

Specialty

Specialty	(n=1599)
Internal Medicine, General	15%
Family Practice	12%
Pediatrics, General	8%
Other, Please specify.	7%
Obstetrics / Gynecology	6%
Psychiatry (Adult)	5%
Anesthesiology	5%
Surgery, General	4%
Radiology	4%
Emergency Medicine	4%
Orthopedic Surgery	3%
Cardiology	3%
Ophthalmology	3%
Pathology	2
Pediatrics, Subspecialty	2%
Dermatology	2%
Neurology	2%
Urology	1%
Otolaryngology	1%
Pulmonary Medicine	1%
Surgery Subspecialties	1%

Specialty	(n=1599)
Plastic Surgery	1%
Physical Medicine & Rehabilitation	1%
Psychiatry (Child and Adolescent)	1%
Nephrology	1%
Neurosurgery	1%
Endocrinology	.6%
Infectious Diseases	.6%
Radiation Oncology	.6%
Rheumatology	.5%
Allergy and Immunology	.5%
All others	1.3%

Gender



Age

(n=1587)

