

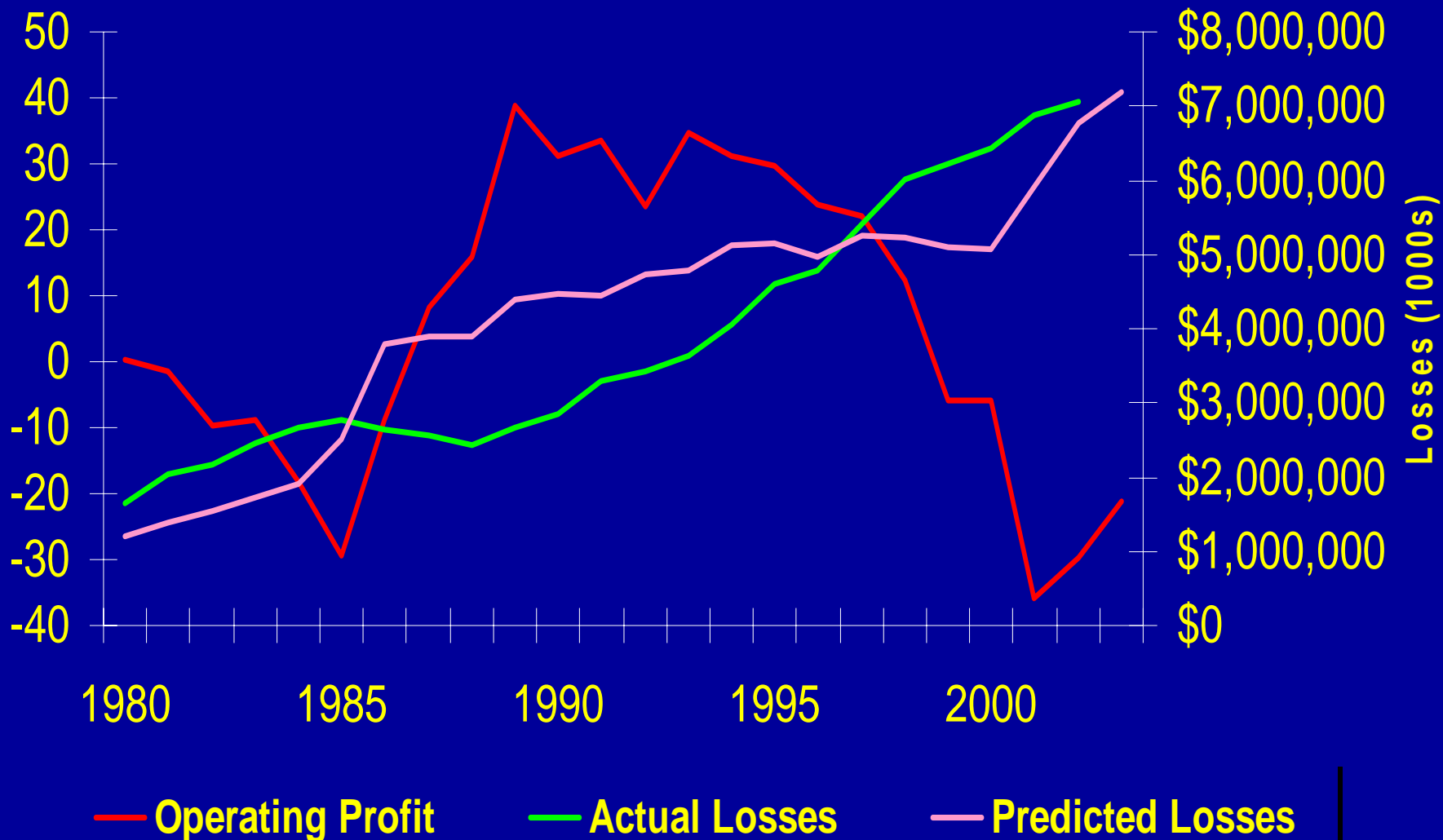
the
medical malpractice
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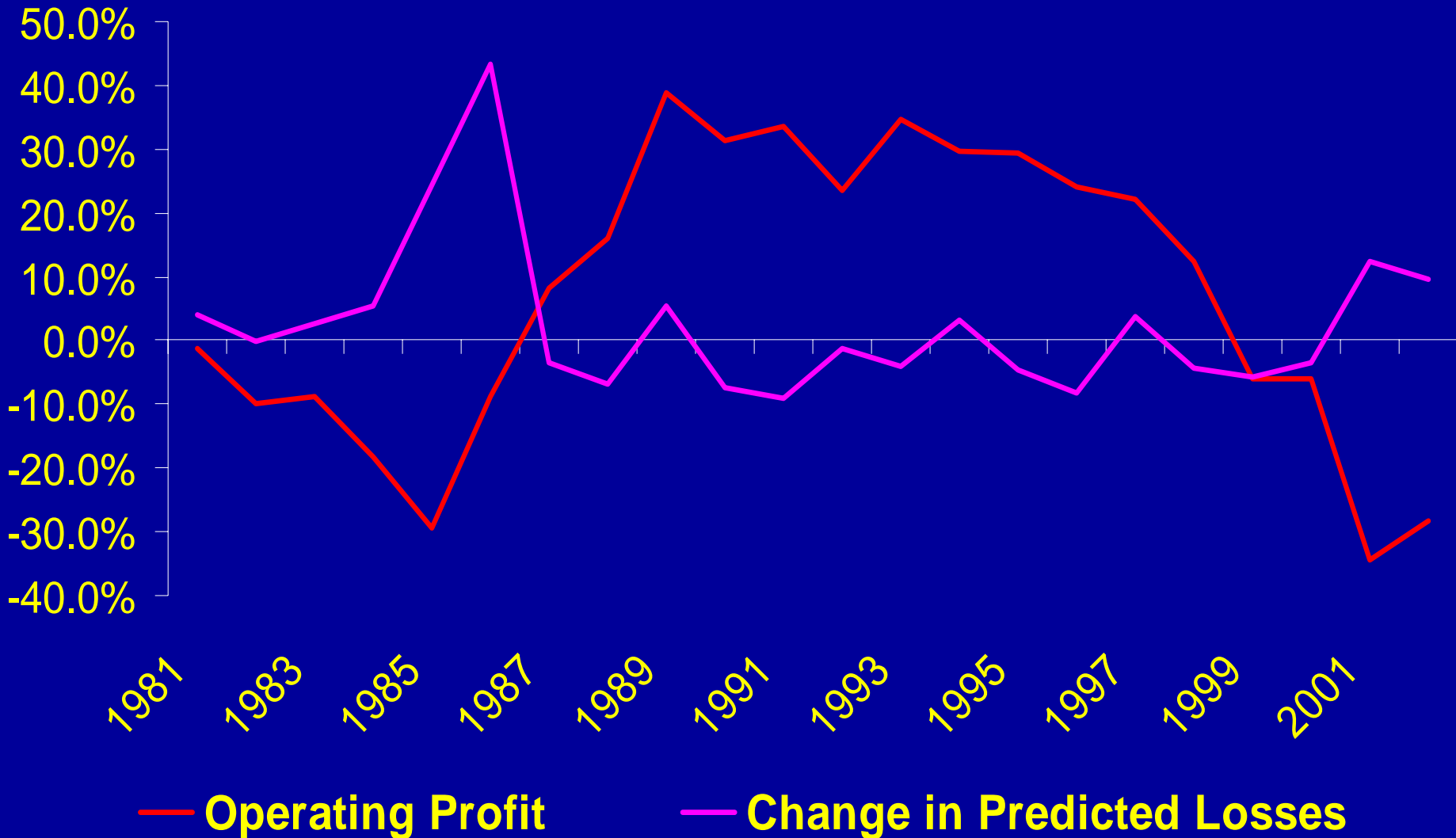
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Operating Profit and Losses

U.S. Medical Malpractice Market, 1980-2003



Inflation Adjusted Change in Predicted Losses U.S. Medical Malpractice Market, 1980-2003



Evidence-Based Reform

- Disclosure
- Apology and restitution
- Supplemental, no fault compensation
- Enterprise liability insurance

Disclosure

- Must disclose – orally and in writing – any adverse and possible adverse events to patient, Department of Public Health, and patient's health insurer.
- DPH has strong enforcement powers, including audit.
- Nondisclosure means that the adverse event will be treated as negligent in any medical malpractice claim.

Apology and Restitution

- Provider apologizes and offers restitution within a reasonable time after injury.
- If offer is refused and if verdict is less than 20% above offer, plaintiff receives the lesser of the offered amount or the verdict, minus the attorneys' fees the defendant incurred from the date of the offer.

Supplemental No-fault

- Provider-financed benefits for any patient injured by an adverse event caused by the provider.
- Benefits cover uninsured medical expenses and wage losses, after a deductible and up to a maximum per injury.
- Maximum benefit per injury will not exceed \$50,000.
- Administrative process modeled on workers compensation and Social Security disability.
- Existing tort rights are not changed.

Enterprise Liability Insurance

- Hospitals and other designated organizations must purchase insurance covering claims made against a health professional arising out of care provided or to be provided in a facility of the organization.
- Insurance will provide \$2 million per occurrence per professional, in addition to defense costs, and will be primary for covered claims.
- If supplemental no-fault program is adopted, this insurance will cover those benefits as well.

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