Executive Summary I

- The goal of this study is to estimate the USA-wide savings potential of no-fault Patients' Compensation Systems (PCSs) with a special focus on defensive medicine.
- Bioscience Valuation BSV GmbH is a specialized company engaged in healthcare economic and financial modeling.

Defensive Medicine

- Based on a survey by the Gallup organization (base case), annual cost of defensive medicine is estimated at $480 billion. Using various sources in the analysis, costs are likely in a range of $270 billion to $650 billion.
- Annual cost of defensive medicine is over $140 billion for Medicare, and $120 billion for Medicaid.
- If an effective no-fault PCS would be enacted, and assuming a slow change in physicians' defensive medicine behavior, first year savings for payors could be $24 billion; that number may grow to annual savings exceeding $260 billion when physicians have reduced their defensive medicine practices significantly.
- Yearly savings for Medicare are expected to be in the order of $7 billion in the first year, and over $80 billion annually after five years (12% of Medicare's budget). Savings over a ten-year horizon could be in the $700 billion range. The corresponding figures for Medicaid are essentially the same.
- Two major uncertainties are the percentages of healthcare costs attributable to defensive medicine and the degree to which physicians change their defensive practices if a PCS were implemented.
- The percentage of healthcare costs that can be attributed to defensive medicine have been varied between 15% and 35% (base case: 26% based on the Gallup survey). The resulting annual savings potentials are (2015 and beyond):
  - $150 billion to $350 billion (all payors)
  - $47 billion to $110 billion (Medicare)
  - $46 billion to $108 billion (Medicaid).
- Once a PCS were enacted, it is assumed that physicians reduce their defensive behavior by 30% to 70%. The resulting

Executive Summary II

annual savings potentials are (2015 and beyond):

- $156 billion to $363 billion (all payors)
- $49 billion to $115 billion (Medicare)
- $48 billion to $113 billion (Medicaid).

- Potential savings over ten years could exceed $2.6 trillion.
- Even under the most conservative assumptions savings could be close to 7% for both, Medicare and Medicaid (annual budgets 2015: $680 billion each). They may also be as high as 16% of Medicare's/Medicaid's budget.

Patients' Compensation Systems

- Studdert & Brennan describe three PCSs that resemble the Swedish compensation system but differ in their eligibility criteria and compensation packages[1]. The one that appears most suitable for implementation is defined by a 4-week disability threshold, 66% wage replacement, no compensation for lost household production, and a compensation for pain and suffering that is capped at $100,000.- ('PCS II').
- Under PCS II 34,000 patients would get compensated, 77% more compared to current tort.
- Average payment per patient could be in the order of $640,000.-, an increase of 100%.
- The resources needed to fund the system are about $28 billion, 12% less than current tort.
- If the average compensation to patients would be limited at the current tort level, savings of 56% (compared to tort) could be realized.
- In aggregate, patients could receive net payments of $22 billion, a 260% increase over tort.
- The savings due to reduced system costs could reduce 'premium' payments, the contributions of physicians to fund the PCS.
- The system is optimal when between 30% and 50% of all legitimate claims get filed. If significantly less than 30% get filed, the system may compensate less patients than under the current tort system. If significantly more than 50% of legitimate claims get filed, the system could be more expensive than current tort.

[1] D.M. Studdert, T.A. Brennan (2001): No-Fault Compensation for Medical Injuries - The Prospect for Error Prevention, JAMA 286: 217-223