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Tort reform has helped, Barbour says

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Gov. Haley Barbour on Tuesday visited the Hattiesburg Clinic, a stop on a daylong tour of the state to mark the second anniversary of sweeping tort reform legislation the governor said has improved Mississippi's business and medical climate.

"Lawsuit abuse created a health care crisis," Barbour told about 40 of the clinic's doctors and administrators.

The same industry groups that once called Mississippi a "judicial hellhole" run amok with frivolous lawsuits now tout the state's reforms as among the strongest in the nation. The package of tort reform laws passed in 2004 placed caps on jury awards and more.

Because of prohibitive medical malpractice premiums fueled by civil litigation, Barbour said, doctors were retiring early, leaving the state, limiting high-risk services and making it difficult for Mississippi hospitals to recruit physicians.

Since then, Barbour said, malpractice insurers have lowered their rates. It has been easier to grow business in the state, he added, because employers are less fearful of lawsuits and confident that workers will have access to better health care.

Malpractice premiums have decreased by as much as 30 percent, Barbour said, and insurers like Blue Cross/Blue Shield have reduced premiums on health care policies.

Before
tort reform, Barbour

said, there was a time when there was "only one neurosurgeon between Jackson and Memphis," and some pregnant women were forced to drive miles from home to deliver babies because rural physicians could not afford the malpractice coverage to perform births.

Hattiesburg Clinic President John Fitzpatrick said since tort reform, the clinic's ability to recruit top physicians has improved.

"We went from zero (neurosurgeons) to two, and we have a third on the way," he said. Doctors in that specialty pay some of the highest malpractice insurance premiums.

Before tort reform, Fitzpatrick said, "We wouldn't have been able to do that. We couldn't even get them to come here."

Hattiesburg Clinic has been able to divert funds from litigation into electronic medical record systems, he said.

"We acknowledge as health care providers that there are errors and mistakes," Fitzpatrick said. "Because of savings from lawsuit abuse, we've invested in technology that reduces errors, so patients are getting better quality service."

Neurosurgeon Michael Goodman, who came to the Hattiesburg Clinic last October after practicing in Atlanta

for 16 years, said while a nationwide shortage of neurosurgeons contributed to Mississippi's problem, the state's climate before tort reform repelled physicians in the high-risk practice.

"The problem of the runaway liability crisis made it impossible to recruit anyone," he said. With tort reform – and luck – Goodman said the clinic's nascent neurosurgery department has been successful in attracting doctors from such distinguished institutions as Baltimore-based Johns Hopkins.

Tort reform opponents, however, said there was never any medical crisis in Mississippi – and that civil litigation has helped insurance companies, not average Mississippians.

"The alleged need for tort reform was fabricated to begin with," said John Hawkins of Jackson, president of the Mississippi Trial Lawyers Association. "There is no correlation between the governor's legislation and the alleged benefits he's claiming now. The fact is that the doctors were not leaving the state of Mississippi in droves."

An August 2003 report from the Government Accountability Office on the implications of rising medical malpractice premiums on access to health care found that many factors, including high premiums, contributed to Mississippi's physician shortage.

The GAO confirmed some surgeons on the Gulf Coast stopped providing on-call services at several hospitals and limited practice to a single emergency room to save on malpractice premiums. Some family doctors and rural practices closed obstetrics wards, causing some pregnant women in rural central Mississippi to drive as far as 65 miles to deliver babies, the GAO said.

But the report found that while health care providers asserted as many as 50 Mississippi doctors had left the state in response to malpractice pressures, the departures were scattered throughout the state and represented 1 percent of all licensed Mississippi physicians. The number of physicians per capita, the report found, increased slightly from 1.9 to 2 per thousand between 1997 and 2002.

Barbour said while Mississippi's health care must improve, tort reform works.

"We've still got to turn a corner – Mississippi always had a low number of doctors," he said, adding most of the state does not have as strong a health care community as Hattiesburg's.

"But without tort reform, we'd still be hemorrhaging doctors instead of stabilizing the medical community."

Tort reform

n The issue: In response to rising medical malpractice premiums and a national reputation for a poor business climate, the state Legislature in 2004 passed a package of tort reform laws; among the changes were caps on jury awards.

n The aftermath: Gov. Haley Barbour said Monday that malpractice premiums have decreased by as much as 30 percent and insurers like Blue Cross/Blue Shield have reduced premiums on health care policies. Moreover, he said, the state has become more attractive to doctors and businessmen.

n The opposition: Tort reform opponents say a health care crisis due to insurance rates never existed in Mississippi and that new laws governing civil litigation have helped insurance companies at the expense of average citizens. Mississippi Democratic Party Chairman Wayne Dowdy in a statement questioned Barbour's "sudden attention on tort reform" when Mississippi faces "more pressing needs ... such as speeding our state's recovery from Hurricane Katrina."

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