

**Texas Success  
In Brief  
Texas Proves that Medical Liability Reform Works**

***When the medical liability system reaches the crisis stage, as it did in Texas, patients suffer the most because they lose access to needed medical care.***

- At the height of the crisis, Texas ranked 48<sup>th</sup> out of 50 states in terms of physician manpower.<sup>1</sup> Texas averaged just 152 doctors per 100,000 people, compared to a national average of 196.<sup>2</sup>
- In the midst of the Texas crisis, two out of every three Texas counties had no obstetrician. Half of all counties had no pediatrician.<sup>3</sup>

***Lawsuits doubled as trial lawyers flooded Texas courts with medical liability claims.***

- Between 1996 and 2000, the number of lawsuits filed per 100 Texas physicians doubled.<sup>4</sup> By 2000, about one out of every three doctors practicing in Texas could expect to be sued in a given year.<sup>5</sup>
- Between 1995 and 2002, medical liability claims against Texas doctors were being filed at twice the national average.<sup>6</sup>
- Most claims had little or no merit. A 2001 Texas Medical Association study found that six out of seven lawsuits ended with no finding of fault against the doctor.<sup>7</sup>

***Soaring awards for non-economic damages lead to soaring liability premiums.***

- In 1991, non-economic damages accounted for just 35 percent of total jury verdicts.<sup>8</sup> By 1999, non-economic damages had soared to a whopping 65 percent of total awards.<sup>9</sup>
- By 1999, the average non-economic damage award for a Texas medical liability case hit \$1.3 million – four times the amount a decade earlier.<sup>10</sup>

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<sup>1</sup> Texas Tech Law Review, Volume 10, Number 1

<sup>2</sup> Texas Tech Law Review, Volume 10, Number 1

<sup>3</sup> Texas Alliance for Patient Access (TAPA)

<sup>4</sup> Texas Department of Insurance (TDI)

<sup>5</sup> TDI

<sup>6</sup> Slide 8, "Journey to the Center of Tort Reform," a Powerpoint presented April 5, 2006 to the annual conference of the Texas Organization of Rural and Community Hospitals.

<sup>7</sup> TAPA [www.tapa.info](http://www.tapa.info)

<sup>8</sup> Texas Tech Law Review, Volume 10, Number 1

<sup>9</sup> Texas Tech Law Review, Volume 10, Number 1

<sup>10</sup> TAPA [www.tapa.info](http://www.tapa.info)

***More lawsuits and soaring jury awards led to skyrocketing medical liability premiums.***

- Physicians experienced insurance premium increases of between 22.5 percent and 128 percent in about four years.<sup>11</sup> An astounding 6,500 doctors were forced to practice without any liability coverage at all.<sup>12</sup>
- Between 2000 and 2003, the average medical liability premium for a hospital more than doubled to \$870,000 per year.<sup>13</sup>
- The number of companies providing liability insurance to Texas doctors fell from 17 to 4.<sup>14</sup>

***In 2003, Texas enacted two major medical liability reforms: House Bill 4 and Proposition 12. The most important reforms included:***

- A cap on non-economic damages
  - \$250,000 for all physicians per claimant
  - \$250,000 for hospital system
  - \$250,000 for a second hospital system
  - \$750,000 maximum non-economic award from all parties
- Periodic payments for awards greater than \$100,000
- Protections for emergency room care providers
- Expert witness reforms to curb frivolous lawsuits

***Medical liability reform has given Texas patients greater access to medical care.***

- In 2008, over 4,000 physician licensure applications were received, compared with 2,500 in 2002, before liability reforms were enacted.<sup>15</sup>
- Since reforms were adopted, Texas has added 192 new obstetricians, compared to a net loss of 14 in the three years prior to reform.<sup>16</sup>
- An additional 162 orthopaedic surgeons began practicing since reform passed. Texas also added an additional 551 ER doctors and 49 new neurosurgeons.<sup>17</sup>
- From a low of 105 in 2002, the number of pediatric cardiologists has increased to 153 as of 2008. Forty-nine new pediatric oncologists began treating Texas children between 2003 and 2008.<sup>18</sup>
- The number of neonatal-perinatal specialists has grown from 207 in 1999 to 303 in 2008.<sup>19</sup>

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<sup>11</sup> Texas Tech Law Review, Volume 10, Number 1

<sup>12</sup> Texas Tech Law Review, Volume 10, Number 1

<sup>13</sup> Texas Tech Law Review, Volume 10, Number 1

<sup>14</sup> Texas Tech Law Review, Volume 10, Number 1

<sup>15</sup> Texas Medical Board <<http://www.tmb.state.tx.us/TMBstats-FY01-08.pdf>>

<sup>16</sup> Texas Medical Board, May Reports, 2003-2008

<sup>17</sup> Texas Medical Board, May Reports, 2003-2008

<sup>18</sup> Texas Medical Board, May Reports, 2002-2008.

<sup>19</sup> Texas Medical Board, May Reports, 1999-2008.

***Patients across Texas have benefited from medical liability reform.***

- Harris County, the state's most populous, added 1,859 physicians since medical liability reform was adopted, including 103 emergency room physicians and 19 neonatologists.<sup>20</sup>
- Seventy-six counties have experienced a net gain in emergency physicians since the passage of medical liability reforms five years ago, including 39 medically underserved counties and 30 counties that are partially medically underserved.<sup>21</sup>

***Insurance companies lowered premiums in response to reform; the crisis passed.***

- Since medical liability reform was passed, insurance companies have adopted significant rate reductions. Following several years of steep declines, physician liability rates continued to decrease or stay the same in 2008.<sup>22</sup>
- In 2008, OB/GYNs in Texas paid some of the lowest liability premiums in the nation, with rates decreasing by up to 7 percent.<sup>23</sup>

**Case in point:**

“TMLT has now reduced rates for Texas physicians six consecutive years since the passage of House Bill 4 and Proposition 12 in 2003,” said Bob Fields, president and CEO of Texas Medical Liability Trust – the largest carrier in the state.

For the first five years, rates were reduced across the board for all specialties: 12% in 2004; 5% in 2005; 5% in 2006; 7.5% in 2007; 6.5% in 2008. For 2009, all specialties will receive a rate decrease but the reduction will vary by specialty and territory with an average decrease of 4.7%. According to Fields, the cumulative premium savings realized by policyholders will exceed \$275 million since January 2004.

“This is the fourth consecutive year the Trust has announced a policyholder dividend,” said Fields. “The 22.5% dividend is the largest percentage dividend in the Trust’s history. Since the first dividend was declared in 2005, renewing TMLT policyholders will have received dividend credits off renewal premiums amounting to approximately \$105 million.”

***Texas reforms were so successful that they became the basis for reform legislation introduced in the U.S. Congress in 2006.***

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<sup>20</sup> Texas Medical Board, May Reports, 2003-2008.

<sup>21</sup> “Texas finally home to enough ER doctors,” *Dallas Morning News*, February 19, 2009.

<sup>22</sup> Medical Liability Monitor Rate Survey, October 2008.

<sup>23</sup> Medical Liability Monitor Rate Survey, October 2008.