

Medical Liability Reform Delivering Results for Texas Patients

Fifteen years ago this month, Texas voters did something truly dramatic. They approved a constitutional amendment that limits non-economic damage awards in lawsuits against doctors and hospitals. The reason for doing so was painfully obvious: Jury awards for subjective harm, like emotional distress, were soaring.

At the time, questionable lawsuits and abusive legal practices were driving good doctors away from high-risk practices and out of areas of the state known as lawsuit abuse hotbeds as their medical liability insurance premiums skyrocketed. In fact, prior to 2003, one in every four Texas doctors had a lawsuit filed against them each year, costing as much as \$50,000 to defend. This worsening crisis was so severe that only a few medical liability insurance carriers were offering coverage in the state.

The editorial staff of the Austin American-Statesman presented the crisis simply and directly. A “cap on damages from malpractice suits is a necessity,” they wrote. “An argument against the cap is that it is arbitrary. Yes, it is, but so is any jury’s attempt to award non-economic damages,” the newspaper’s July 20, 2003 editorial noted.

Voters responded by passing Proposition 12, a constitutional amendment that confirmed the Legislature’s authority to limit non-economic damages in health care lawsuits. Compensation for measurable damages like lost wages and medical bills was not affected.



The voter’s decision was the right prescription. Within a few years, the crisis abated. Doctors stopped restricting their practice and returned to the emergency room. Year after year, a record number of new doctors are now coming to Texas. During the past six years alone, Texas has added more patient care doctors than every other state except California. Today, largely because of Proposition 12, Texas has more doctors per capita than ever.

Because of Proposition 12, more pregnant women can now get the pre-natal care they need. More patients can now find a doctor closer to home. Many rural communities now have specialists they previously lacked—like obstetricians, cardiologists and orthopedic surgeons. In Nueces County, the numbers of primary care and high-risk specialists have increased, including 26 family practitioners, 35 pediatric sub-specialists, 61 emergency medicine physicians and a neurosurgeon.

Even accounting for population growth, Nueces County has 69 more doctors than it would have absent the passage of medical liability reform. These additional physicians account for an estimated \$48.3 million economic impact in 2018 alone.

Across Texas, 61 rural counties have added an emergency medicine physician, including 45 rural counties that previously had none. There is still a great need for physicians of course, and that demand only grows with a growing population.

But because of Proposition 12, medical care is more readily available. More Texans have more treatment options. Frivolous lawsuits have declined. Our courts are less burdened with suspect lawsuits. And what voters passed 15 years this month has become a model for the rest of the nation.