

TAPA NEWS & NOTES

The Official Newsletter of the Texas Alliance for Patient Access

April 2025



Inside this Issue:

- Page 2 TAPA On the Courthouse Steps: Texas Supreme Court Ruling
- Page 3 TAPA's Legislative Update. The good, the bad and the crazy.
- Page 4 Upcoming Events



6514 McNeil, Ste. 2-2000
Austin, Texas 78729
512.703.2156
www.tapa.info

TAPA is an Advocate for Texas Medical Providers

Texas Alliance for Patient Access is an association of over 250 health care interests providing medical care to Texas residents and services to Texas medical providers. Its members include physicians, hospitals, nursing homes, long-term care facilities, physician groups, physician/hospital liability carriers, and charity clinics, as well as other entities that have an interest in assuring timely and affordable access to quality medical care. TAPA seeks to improve access to health care by supporting meaningful and sustainable health care liability reforms.

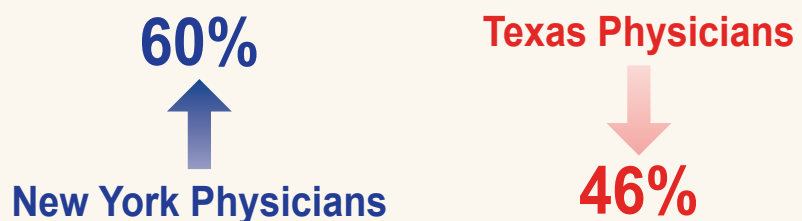
TAPA's sole means of support comes from member paid dues and donations. TAPA uses funds from dues and donations to fight plaintiffs' attorneys efforts to eliminate our medical liability reforms, and that fight takes place in the Texas Courts, at the Texas Legislature, and in the court of public opinion. Preserving these reforms is vital to maintaining access to medical care, especially for the poor, the elderly, and rural Texans.

If you are interested in joining TAPA or need TAPA to provide information on the benefits of Texas medical liability reforms, including in-person or virtual presentations, please email our executive director at bjackson@tapa.info.



Two-Roads Diverged: New York & Texas

Change in Annual Premiums Since 2003



Source: Analysis of rates and premiums charged by Medical Liability Mutual Insurance Company and Texas Medical Liability Trust (The largest physician liability carriers in New York and Texas)



ON THE COURTHOUSE STEPS

The Texas Supreme Court ruling in *Pierce v. Abilene Regional*

The Texas Supreme Court ruled in favor of an Abilene physician and Abilene Regional Medical Center earlier this year in an important case involving Plaintiffs' obligation to serve defendants with an expert report in medical malpractice cases. TAPA was involved in this case to address concerns that the clear language of the statute, which requires Plaintiffs to directly serve a copy of their expert report on the defendant, be enforced as written.

Elton Pierce was a 57-year-old male who presented to Abilene Regional Medical Center with abdominal pain, ultimately diagnosed as acute pancreatitis. A physician at the ARMC provided care while the patient was in the hospital, but unfortunately, Mr. Pierce died two days later. Mr. Pierce's wife filed a medical malpractice suit against ARMC and the physician.

When Mrs Pierce filed her lawsuit via the Taylor County District Clerk's electronic filing manager, she attached 4 exhibits to her original petition. Those 4 exhibits included CVs and reports from two medical experts. Each defendant was served

with the citation and the original petition, but neither were served with the expert reports and CVs that were attachments to the lawsuit.

TAPA supported the Defendants, and the result was a confirmation from the Texas Supreme Court that Plaintiffs' case was dismissed for failure to comply with the plain language of the statute.

Both defendants filed an answer to the lawsuit and then later filed motions to dismiss because Plaintiff never served them with expert reports as required under Texas law. The trial court denied the motions, holding that filing the expert reports with the Court was sufficient under the law. The Defendants appealed that denial to the 11th Court of Appeals and the Appeals Court ruled in favor of the physician and the hospital, stating that Plaintiffs obligation was

to serve the defendants directly with the expert reports, and that filing them with the court was insufficient. Plaintiffs then appealed that ruling to the Texas Supreme Court, seeking reinstatement of her lawsuit. TAPA supported the Defendants, and the result was a confirmation from the Texas Supreme Court that Plaintiffs' case was dismissed for failure to comply with the plain language of the statute.



TAPA is fighting to preserve medical liability reforms at the Texas State Capitol during the 89th Legislative Session

There have been 8,898 bills/joint resolutions filed in the Texas Legislature this session, setting an all-time record for the number of new laws proposed by lawmakers. TAPA has evaluated every one, and is currently concentrating on the bills listed below. Your membership is vital to keeping bad bills from becoming worse laws. Thank you.

House Bill 4036 by Rep Katrina Pierson (R - Rockwall) will immediately increase the non-economic damages cap in medical malpractice cases by 70%, from 750k to \$1,294,854 (each 250k bucket immediately increases to \$431,618). The new amounts will then be indexed to the cpi every year thereafter. Defeating this Bill is our #1 priority. The non-economic damages cap was a foundational pillar of tort reform 20 years ago, and medical liability insurance rates are affordable as a result. We must only look to Florida to see what happens when caps are eliminated. A Florida OBGYN pays \$243,000 a year for insurance coverage that costs \$60,000 in Texas. And every Florida medical specialty has the same 400%+ difference in cost. We fear that an immediate 70% increase in the Texas cap will result in corresponding increases in Texas medical liability premiums.

House Bill 2072 by Rep Lacey Hull (R - Houston) seeks to alter current law as to advanced directives. The bill does many things, but the most concerning is the elimination of the statute of limitations AND providing that any person who “causes a patient’s death by withholding or withdrawing life sustaining treatment” in violation of the Texas Advanced Directives Act is guilty of a 1st degree felony. TAPA OPPOSES this Bill as it

will require physicians to carry malpractice insurance well into retirement and is also another attempt to criminalize medicine.

Senate Bill 30 by Senator Schwertner (R - Georgetown) seeks to establish what charges are reasonable for medical services, transparency in agreements between healthcare providers and Plaintiffs’ lawyers, and better parameters for awarding non-economic damages in personal injury cases other than medical malpractice. This Bill gives meaningful and necessary relief to trucking and other Texas industries that have been besieged by nuclear verdicts. Some TAPA members have legitimate concerns that this Bill could unintentionally set state mandated rates for medical services, but if those concerns can be alleviated we anticipate supporting this bill when it reaches the House.

Senate Bill 2516 by Senator Bettencourt (R - Houston) eliminates the interlocutory appeal currently afforded physicians and their governmental entity employers if the appeal is based on sovereign immunity. TAPA OPPOSES this Bill as it eliminates important protections for physicians and their governmental entity employers.

House Bill 2446 by Rep Harold Dutton (D - Houston) provides that if a plaintiff’s medical bills total less than 50k, there is no requirement to prove those charges are reasonable or necessary. TAPA OPPOSES this Bill, since even the smallest cases filed by Plaintiffs will have \$49,999 in medical bills with no need to prove necessity/reasonableness.

Continued on page 4

Continued from page 3

Senate Bill 3025 by Sen. Brent Hagenbuch (R – Weatherford) seeks mandatory disclosure of third-party litigation financing agreements in civil litigation. TAPA SUPPORTS this Bill.

House Bill 4327 by Rep. Joe Moody (D – El Paso) seeks to expand the list of statutory beneficiaries in civil liability claims asserting wrongful death. TAPA OPPOSES this bill since its only purpose is to expand the number of people who can sue a healthcare provider.

House Bill 5076 by Rep. Jeff Leach (R - Plano) provides that the employer of a physician is not vicariously liable for the negligent medical acts of the physician if the employer did not

control the details of the medical treatment. TAPA continues to MONITOR and evaluate this Bill.

House Bill 4922 by Rep. Sergio Munoz (D – Mission) seeks to add “Freestanding emergency medical care facility” to the list of locations wherein claims for emergency care are subject to the heightened “willful and wanton” standard of negligence. TAPA continues to MONITOR and evaluate this Bill.

House Bill 2190 by Rep. Donna Howard (R – Austin) seeks to create immunity from criminal liability for certain health care providers at certain locations unless the harm or damage results from a criminally negligent, reckless, knowing, or intentional act. TAPA continues to MONITOR and evaluate this Bill.



TAPA Upcoming Events

Have you booked TAPA for your upcoming conference, board meeting or member event? Many members have taken advantage of this free service and ALL of them have been extremely pleased with the audience response to TAPA's presentation. The upcoming calendar is below.

1. April 11: TAPA will speak at the Texas Medical Liability Trust Board meeting in Austin and update attendees on the current legislative session.
2. April 14: TAPA will be interviewed by the Texas College of Emergency Physicians for their upcoming annual meeting.
3. June 13: TAPA will speak will speak at the Texas Hospital Trustees Meeting in Arlington and meet with hospital board members from across Texas re: results of the 89th Legislative Session and the benefits of medical liability reform.
4. July 8: TAPA will speak at the Board Retreat of the Texas Hospital Insurance Exchange Board of Directors and speak on the results of the 89th Legislative Session and the benefits of preserving medical liability reform.
5. July 30: TAPA will speak at the Parker County, TX (Weatherford) Nurses Conference re: results of the 89th Legislative Session and medical liability reform.
6. August 1: TAPA will speak to physicians serving as nursing home medical directors at the PALMed conference in Austin re: the results of the 89th Legislative Session and the benefits of tort reform.

THERE ARE STILL OPEN DATES... IF YOU HAVE A MEETING OR CONFERENCE AND NEED AN INFORMATIVE/ENTERTAINING PRESENTATION...

Email Brian Jackson at bjackson@tapa.info

*Until next time... **Join!** Pay your dues! Spread the word!*