

Federal Judge Finds Texas Cap Constitutional

Lynchpin of state's 2003 lawsuit reforms remains intact

Marshall, TX- A Texas law that caps pain and suffering-type awards in health care lawsuits was ruled constitutional by a federal judge today.

U.S. District Judge Rodney Gilstrap issued a brief one-page ruling stating “all claims by plaintiffs in this matter are denied” leaving the state’s 2003 cap on non-economic damages standing.

In 2003 Texas joined 26 other states in limiting awards in medical lawsuits for hard to quantify injuries such as mental anguish, emotional distress or loss of companionship. [The capped amount varies from \\$250,000 to \\$750,000](#), depending upon the variety of defendants in the suit. Past, present and future medical costs as well as lost wages remain uncapped.

“The court’s decision removes any lingering uncertainty about the voter-approved cap on non-economic damages,” said Mike Hull, general counsel of Texas Alliance For Patient Access, the statewide healthcare coalition that defended the cap. “A trial lawyer victory would have gutted the benefits of reform and been a big blow to the delivery of health care.”

“The 2003 medical liability reforms have been good medicine for the people of Texas,” said Texas Medical Association President C. Bruce Malone, MD. “Thanks to the reforms, we have more physicians available to care for the sickest and most badly injured Texans. The reforms have kept their promise to our state, and this ruling means we won’t break that promise.”

“We’re pleased with the court’s decision in this case because it upholds one of the key 2003 medical liability reforms that has improved access to health care in Texas,” said Dan Stultz, M.D., President/CEO of the Texas Hospital Association. “Since implementation of these reforms hospitals have invested savings from reduced liability insurance coverage back into hospital operations, including new technology that saves lives and improves patient safety. Hospitals also have been able attract new physicians to their community and offer new or expanded services to patients.”

In 2008 ten plaintiffs filed a federal lawsuit in Marshall claiming the state’s non-economic cap violates the U.S. Constitution. Among the plaintiffs was the family of the late Dallas Cowboy Ron Springs who died after a four-year coma.

The suit argued the cap had a direct impact on an injured patient’s potential jury award and whether the cost of proving up the damages was worth pursuing the case. Named as defendants were health care providers who sought to enforce the damage cap and more than 600 Texas trial court judges who are required to enforce the damage limits. The judge subsequently removed those parties from the suit.

Today Judge Gilstrap dismissed the remaining two claims: that a cap on damages unconstitutionally takes private property and that the cap bars access to the courts.

Texas lawmakers passed the cap in 2003 in response to a medical [lawsuit crisis](#). Later that year [Texas voters affirmed the legislature’s authority](#) to set caps on non-economic damages in health care lawsuits. Unlike most cap challenges, the federal suit in Marshall did not claim the non-economic cap violated the state’s constitution. Rather, the plaintiffs claimed the cap violated the U.S. Constitution. This argument, the contended, gave them the right to have the issue resolved in federal court.

Prior to the passage of the cap, most Texas doctors had seen their insurance costs double and many had stopped taking emergency calls or restricted their practice out of fear it would make them vulnerable to a career-threatening lawsuit.

Proponents argued that emergency room services for head injuries, child birth and trauma involving small children were in shorter supply due to the prospects of an over-sized award.

Since the passage of reforms, [Texas doctors have seen their liability rates cut in half](#) and new doctors have flocked to the state in record numbers. [Counties that lacked an orthopedic surgeon, an emergency medicine physician or a cardiologist now have one.](#)

[Physician growth has outpaced population growth every year since 2007](#) and the ranks of high-risk specialists have grown twice as fast as the state's population, according to Jon Opelt, executive director of the Texas Alliance for Patient Access, an organization that supported the cap.