

Texas Hospital Association: Celebrating 10 years of health care liability reform

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Ten years ago, Texas lawmakers and voters approved a comprehensive set of reforms to the state's health care liability system.

Collectively, House Bill 4 and Proposition 12 were intended to address the crisis in the state's health care liability system that had run amok with unfounded lawsuits and unpredictable and widely varying financial awards. The number of health care liability claims being filed in the state was doubling every five years. As a result, hospital malpractice premiums increased more than two-fold in just three short years between 2000 and 2003. All over the state, but particularly in rural areas, hospitals were struggling to maintain traditionally high-risk services such as labor and delivery, trauma and emergency care, and neurosurgery because physicians were leaving the state for other locales that weren't quite as litigious. Some were hanging up their stethoscopes altogether.

More than 155 counties in Texas had no obstetrician in 2003. Pregnant women in South Texas were driving 100 miles for prenatal care. Even in counties that had obstetricians, the number willing to take on complicated pregnancies where a negative outcome was a real possibility was decreasing. Neurosurgeons in Dallas, Austin, and Beaumont were vanishing -- the result being that patients did not have access to a specialist when they needed one.

H.B. 4 and Proposition 12 sought to remedy this situation by limiting awards in health care liability claims for noneconomic damages, such as emotional distress. These awards are now capped at \$750,000 (\$250,000 for physicians, \$250,000 for the first hospital/health care facility, and \$250,000 for any additional facilities). There is no cap on actual damages, such as loss of income or medical expenses, and plaintiffs can still be fully compensated for their economic losses and medical expenses.

The reforms have worked. Record numbers of physicians are applying for state medical licenses. In 2012, the Texas Medical Board licensed 3,630 new doctors, the highest number of any year on record. According to TMB, 4,610 new physician applications were submitted, and 3,594 new newly licensed. The number of pediatric subspecialists -- the doctors who care for children with complex and serious conditions -- has increased more than 300 percent since 2003. The number of ER doctors in rural areas has increased 64 percent, outpacing rural population growth by nearly a factor of 10. Thirty-five rural counties have added at least one obstetrician, including 14 counties that previously had none. All these numbers translate to better access to care for Texans.

Hospitals are investing the savings from reduced liability insurance premiums into technologies and new or expanded service lines to better meet the needs of their communities. By one estimate, hospitals have collectively saved over \$100 million a year in health care liability premiums. These savings are being used to implement electronic health records, establish satellite clinics in underserved areas, and upgrade medical equipment.

At the same time, hospitals are investing in quality and patient safety initiatives to prevent adverse events and errors from occurring. Texas hospitals are engaged in a number of patient safety initiatives, all designed to prevent medical errors. Nearly 50 intensive care units from 35 Texas hospitals and health systems, for example, participate in a statewide initiative to reduce Central Line-Associated Blood Stream Infections, one of the most deadly and costly of hospital-acquired infections. A key part of this initiative is the mutual sharing of mistakes, and the impact cannot be overstated. The initiative has achieved a 58 percent reduction in the number of units (ICUs and non-ICUs) reporting infections, thereby reducing morbidity, mortality, and costs. Likewise, nearly

80 Texas hospitals have joined together in the Partnership for Patients to reduce hospital-acquired conditions and readmissions. This initiative is highly successful; as of August 2013, more than 60 percent of participating hospitals are maintaining a zero rate or are on target to meet the initiative's goals for six of 11 conditions.

Texas hospitals and physicians owe heartfelt thanks to the Texas lawmakers and voters who approved H.B. 4 and Proposition 12 and made Texas one of the best places in the country to practice medicine. Ten years later, with better access to care and flourishing patient safety initiatives, patients are reaping the benefits.

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