

Valley doctors caught in 'lawsuit war zone'

JAMES PINKERTON, Copyright 2001 Houston Chronicle Rio Grande

Valley Bureau

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EDINBURG - When cardiologist Dr. Hector Urrutia was sued by enough patients to fill a 10-page list, he could find no evidence he had treated all of them.

And when his lawyer examined the malpractice case against him and the McAllen Medical Center, Urrutia got another jolt. The medical expert hired to review the case was a local general practitioner who works out of her home, hasn't had hospital privileges since 1997 and charges \$500 an hour to testify for plaintiffs' attorneys.

"This is a doctor who is not a cardiologist; she is not a cardiovascular surgeon; she is just a family doctor who works out of her house, making house calls," said Urrutia's attorney, George Evans Jr. He characterized the expert witness, Dr. Jetta Brown, as "a witness for hire."

The fact that a number of Valley lawyers have hired Brown as a medical expert — she estimated in a deposition that she has reviewed 700 cases — and several huge malpractice suits filed against the McAllen Medical Center have led to critics' charges that lawsuit abuse is rampant in the Rio Grande Valley.

Some medical associations are concerned the trend may spread across the state.

"We've already seen, anecdotally, serious problems with hospitals and clinics attracting doctors to the Valley, keeping specialists in the Valley — it's a lawsuit war zone," said Kim Ross of the Texas Medical Association. "The hemorrhaging down there is symptomatic of a state-wide problem, and we would not want the Valley situation to metastasize to the rest of the state."

A report from the Texas Board of Medical Examiners indicates a drastic increase in malpractice claims in the McAllen-Edinburg-Mission area — from

131 cases in 1998 to 551 in 1999. Medical claims in neighboring Brownsville and Harlingen increased from 38 in 1998 to 85 in 1999.

Brown's involvement grew out of tort-reform measures adopted by the Texas Legislature in 1995. Among them is a requirement that plaintiffs' attorneys have a medical expert review medical records to support a negligence claim, Evans said.

He said a physician who oversaw Brown's medical residency training stated in an affidavit that she is not qualified to offer an expert opinion in the field of heart disease or heart surgery. In a deposition, Brown said she received her medical degree from the University of Texas Medical Branch at Galveston and that she has been a solo family doctor in the Valley since 1980.

She did not respond to a written request for comment left at her home. Her phone number is unlisted. Ramon Garcia, the Edinburg attorney who filed the suit and hired her as the expert, would not return phone calls.

In addition, a second large suit against McAllen Medical Center for anyone treated in its heart center from 1993 to 1999 — a group potentially larger than 5,000 patients — has added to charges of unethical lawyers' tactics.

Many of the plaintiffs have been dismissed after medical records showed no negligence occurred.

On Jan. 24, a judge in Edinburg ordered the law firm of Houston plaintiffs' attorney Michael Caddell to pay the legal fees, estimated between \$15,000 and \$50,000, for five doctors sued by a heart patient.

At the hearing, the patient, Ricardo Treviño, told a judge he never authorized suing heart surgeon Dr. Tawhid Shuaib. A legal contract signed by Treviño authoriz-

ing a suit against the hospital — but not the doctors — was introduced.

Caddell, however, contends that McAllen Medical Center — owned by the nation's third-largest hospital chain — misrepresents its heart doctors' credentials, its equipment and its standard of care, and that it subjects patients to unnecessary procedures to increase profits.

"What we're finding... is that McAllen Medical Center is making these fantastic sums of money off a very poor patient base by performing, in some cases, unnecessary surgeries, and by cutting costs and by failing to give patients the proper level of patient care," said Caddell, who has filed numerous suits against the hospital.

He pointed to depositions from executives of Pennsylvania-based Universal Health Services Inc., which owns McAllen Medical, who called it the "jewel in the crown" of the chain.

He also quoted a 1999 deposition from a heart surgeon who acknowledged he and other surgeons were told by administrators to perform more operations or lose their employment.

Caddell also said he had dropped dozens of suits against the hospital when medical records showed no negligence.

The attorney for the hospital accused Caddell of slandering the Valley's medical community "in his frivolous and outrageous lawsuits."

"This area... is served by competent physicians and surgeons," said Craig Vittitoe, the Harlingen attorney who represents the hospital. "We have caring hospitals, and that includes McAllen Medical Center."

But the rancorous legal battles have put a chill on practicing medicine in the Valley, attorneys for the doctors say.

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“It’s no longer a question of them (doctors) being outraged,” said Evans, a veteran San Antonio defense attorney who also teaches legal jurisprudence at the University of Texas Health Science Center in San Antonio. Doctors now are so worried about frivolous suits, he said, that they wonder if they should continue to work in the Rio Grande Valley.

And they are reaching deeper into their pockets to pay for ever more costly malpractice insurance.

Now, the Texas Medical Association is asking the Legislature for additional legal remedies. TMA officials claim the border physicians are under assault by greedy plaintiffs’ lawyers.

The medical association is survey-

ing Valley doctors about the frequency of malpractice suits and the effect on their practice. The group also has filed an open-records request to the Texas State Bar for disciplinary records against lawyers who file frivolous cases.

The nonprofit Texas Medical Liability Trust, which insures most of the Valley doctors, reported the frequency of lawsuits in the Valley is 70 percent higher than in the rest of the state.

One reason is the border has a reputation for eye-popping jury awards, a fact that encourages more litigation, said state Rep. J.J. Hinojosa, D-McAllen, a lawyer.

At the urging of the TMA, he has introduced a bill in the Legislature that allows doctors to sue a patient and his

lawyer if a health claim is filed in bad faith.

Hinojosa said that existing legislative reforms, such as requiring a plaintiff to post a \$5,000 bond when suing for malpractice, have proved ineffective.

Others believe lawyers should be removed from the process entirely.

“It seems like there ought to be a system that looks at fairly compensating an injured patient without taking a case to trial,” said W. Thomas Cotten, president of the doctor-owned Texas Medical Liability Trust.

“What we have to do is get the trial bar out of the system and at the same time fairly compensate injured patients.”