



TEXAS HOSPITAL ASSOCIATION

Tenth Anniversary of Health Care Liability Reform

Background:

In 2003, the state legislature and Texas voters approved a set of reforms to the state's health care liability system. These reforms have had a significant impact on increasing physician supply in Texas and access to care for Texas patients.

The most meaningful of these reforms is the cap on financial awards for noneconomic losses in health care liability cases. Noneconomic losses – emotional distress, for example – are 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.

All the goals of H.B. 4 and Proposition 12 have been achieved:

- Decrease in the number of unfounded health care liability lawsuits.
- Decrease in professional liability insurance rates.
- Increase in number of medical liability insurers.
- **Increase in the number of physicians in Texas.**
- **Return of medical specialists to the state.**
- **Improved access to care.**

Impact on Hospitals and the Patients They Serve:

- 1) Hospitals are using the savings from reduced liability insurance premiums to fund investments in critical infrastructure and services that improve patient care.
 - Liability insurance premiums have decreased every year since 2003
 - Hospitals are collectively saving ~\$100 million a year on liability premiums
 - Investing in technology and equipment:
 - 37 percent of hospitals used savings to maintain, update, or add new medical equipment in radiology, the lab, or pharmacy
 - Hospitals are using liability savings to fund electronic medical records
 - Investing in services:
 - 51 percent of hospitals used savings to maintain/expand coverage or services for uninsured/underinsured patients, including satellite clinics in underserved areas.
- 2) Reduced liability risk has allowed hospitals, particularly small and rural hospitals, to restore high-risk services, i.e. OB, ED, trauma, neurosurgery, and increase the availability of needed care.

- 54 rural counties have seen a net gain in ER doctors since 2003
 - 35 rural counties have added at least one OB since 2003, 14 of which had no OB previously
 - Number of pediatric subspecialists increased 300 percent between 2003 and 2012
 - Number of emergency physicians increased 106 percent between 2003 and 2012
 - Number of neurosurgeons increased 23 percent between 2003 and 2012
- 3) Hospitals have easier time recruiting physicians and therefore meeting the need for high-risk services, including OB, ED, and neurosurgery.
- In 2012, the Texas Medical Board licensed 3,630 new doctors, the highest number of any year on record.
 - Hospitals able to recruit neurosurgeons and surgeons to cover trauma in the ER.
- 4) Health care liability reform promotes the goals of the patient safety movement
- Rather than deterring errors, the pre-2003 liability system inhibited providers from sharing data and collaborating – both essential for preventing medical errors and figuring out why adverse events occur.
 - Today, hospitals are engaged in numerous patient safety initiatives to improve quality of care and prevent adverse outcomes. Many such initiatives involve sharing information in order to learn from others' past mistakes.