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ANOTHER VIEW

Workers' comp fails to work

State law establishes a compact with Texas employers and employees.

Employers give up rights to oversee wage replacement and medical benefits related to workplace safety in exchange for state immunity from employee health and safety lawsuits, and a system that returns employees to work quickly at reasonable cost — provided the employer complies with workplace standards.

Employees give up rights to sue employers for workplace injuries in exchange for a state system that provides quality medical care with quick recovery and reasonable wage replacement.

This compact has been violated by the failure of the Texas workers' compensation system to meet its obligations to employers and employees. The state system fails because it installs government as the intermediary between employer, employee, health provider and insurer. It eliminates economic, medical and social incentives for the system to serve the best interests of injured employees and responsible employers.

The consequences are unjustifiably high use, uncontrolled costs and poor medical care outcomes.

The state could fulfill its compact with employers and



employees by creating the conditions necessary for successful workers' compensation programs in Texas. The most important of these conditions is the extension of full liability protection to all employers, regardless of their participation in the state-run program.



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The current system is most deficient because it unjustly penalizes businesses that opt out by denying them immunity from liability. Consequently, workers employed by companies that opt in are denied the best options available for health care if they are injured on the job.

As a matter of principle, the state should not punish companies that make a rational decision to obtain better insurance and occupational benefits for their employees. Nor should workers be punished with low quality of care simply because their employer seeks the shelter of liability protection extended to them by the state.

Today, many of the original reasons for creating the Texas workers' compensation system no longer exist, and many of the functions performed by the state system duplicate functions performed by professional associations or are functions now governed by federal regulation. A state system for establishing standards, monitoring workplaces and enforcing compliance is now duplicative and unnecessary.

Market incentives and choice always work better than government mandates and regulation.

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