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Capping Jury Verdicts Boon For Health Care

Free-market fixes are proving to be just what the doctor ordered, the Texas Public Policy Foundation's Drew Thornley reports. The hotly debated "tort reforms" concerning medical liability have yielded significant results for Texans.

"Basic economics teach that imposing higher costs and burdensome regulations on businesses leads to fewer businesses and higher costs for consumers," he says. "The opposite is also true: Lower costs and fewer restrictions in a marketplace will lead to more market participants, greater supply, and lower prices for consumers."

We can see this in the medical malpractice insurance industry.

"In the spring of 2003, the Texas Legislature passed medical liability reforms, subsequently approved by Texans via constitutional amendment," Thornley recounts. "Prior to the reforms, Texas presented a hostile climate for medical practitioners. Frequent lawsuits against physicians and hospitals and escalating jury awards to plaintiffs drove doctors and insurers from the state, leading to physician shortages and higher costs for both doctors and patients."

Many of the lawsuits were frivolous.

"Even though 85 percent of these suits failed, doctors paid tens of thousands of dollars to defend against them," Thornley says. "This, of course, was bad for patients, as increased litigation means less time and money on actual patient care."

He points out that between 1996 and 2000, one of every four Texas doctors was sued.

"In the 10 years following 1989, the average medical malpractice verdict skyrocketed from \$472,982 to \$2,048,541," Thornley says. "The percentage of such awards attributable to non-economic damages, which are intangible injuries like pain and suffering, increased from 35.7 percent to 65.6 percent."

This drove insurance companies from the state.

"Between 2000 and 2003, 13 of the state's 17 medical insurance carriers pulled out of Texas," he says.

But the Legislature and the voters took steps to end the abuses. Non-economic damage awards were capped at \$250,000, and in death-related cases, economic damages were capped at \$1.6 million. Rules on expert testimony and the standard for negligence were tightened.

The results have been a shot in the arm for health care in Texas.

"Over the last four years, doctors and insurers have returned in droves, premiums are falling, and health care is more available and affordable," Thornley says.

In fact, Texas now has the "best overall tort climate" in the United States, according to the Pacific Research Institute's "U.S. Tort Liability Index: 2006 Report," an analysis of the tort systems of all 50 states.

"The overall tort climate in Texas is increasingly favorable to physicians, insurers, and patients," Thornley says. "Pre-reform, medical malpractice rates were rising 15-20 percent per year; post-reform, rates have fallen almost 40 percent. Texas Medical Liability Trust, the state's largest medical malpractice insurance carrier, has reduced rates the last five years."

The number of doctors working in Texas is rising.

"In May 2003, there were 35,723 in-state medical doctors; today, there are 6,000 more," he says. "Doctors view Texas as an attractive place to practice."

And that's a positive diagnosis for the health of every Texan.
