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Proposition 12 a winner five years later

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Five years ago, Texas voters adopted Proposition 12, the constitutional amendment ratifying the cap on noneconomic damages in lawsuits against doctors that the Texas Legislature established in House Bill 4.

The five-year results have been impressive, and the legislation will produce great benefits for Texas patients as long as the reforms are kept intact.

The lawsuit reforms in HB 4 were a common-sense approach to eliminate gamesmanship and strong-arm tactics in the legal process:

Juries should hear more evidence.

Only those individuals at fault should pay, and only that percentage of their fault.

Damages should be limited to what the plaintiff actually paid or incurred — or what someone paid or incurred on the plaintiff's behalf — thereby eliminating inflated or phantom damages.

Within 120 days of filing suit, the plaintiff should submit a medical report written by a physician in the same or similar field as the physician being sued clearly identifying the standard of care in the case, how it was violated and that damages resulted from its violation.

Noneconomic damages should be capped at \$250,000 for any and all doctors sued, with an additional cap of \$250,000 for each of up to two medical care institutions.

The argument for HB 4 went like this:

Reforming medical liability laws will result in fewer lawsuits. Doctors will pay reduced insurance premiums. More doctors will come to Texas. And Texans will have greater access to healthcare. The dominoes have fallen exactly as predicted.

Before HB 4, 1 out of 4 doctors had a claim brought against him or her each year. Today, medical malpractice liability lawsuits are down by half.

That led to a dramatic drop in insurance premiums paid by Texas physicians.

Texas Medical Liability Trust has repeatedly dropped its rates and returned dividends to renewing policyholders, equating to a more than a 50 percent rate cut.

There are also more than 30 new insurers — up from just four in 2003 — and even those carriers are cutting their rates.

Because of the huge rate cuts and stable insurance market, doctors have flocked to Texas.

Since 2003, Texas has licensed 14,500 new doctors. Each year sets a record for license applications filed. We hoped for an increase in physicians being recruited out of residency programs, but no one anticipated the volume of doctors bringing mature practices and experiences to Texas.

Finally, access to healthcare has improved remarkably. Before Proposition 12, the state's population was growing; the number of Texas physicians was not.

Texas ranked 45th in the nation in doctors per capita. South Texas and the border region suffered the worst, and Victoria and Beaumont were losing physicians.

Today, Victoria and Beaumont have reversed those losses and added specialists. There are 52 percent more physicians in San Antonio, 57 percent more in El Paso and 46 percent more in Houston. The Rio Grande Valley's increase is almost 15 percent.

The Memorial Hermann Healthcare System typically recruits two or three physicians per year in pediatric subspecialties. This year, it added 26.

Charity care in Texas is up by more than \$600 million.

Hospital administrators credit Proposition 12 with the massive facility expansions under way, such as the \$1.5 billion expansion to Texas Children's Hospital, the booming Medical Center in San Antonio, and the 100-bed cardiac facility at Fort Worth's Methodist Hospital.

HB 4 was a reasonable response to specific problems and weighed the competing societal needs of access to healthcare versus unlimited awards of noneconomic damages. There are wonderful stories of doctors new to communities whose skill and training have saved a life or corrected a condition for a person who would not have otherwise benefited.

HB 4 worked better than predicted and with minimal changes in our tort system. It has been good medicine for Texas, and its common-sense reforms need to stay intact.