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Rollins: Tort reform sparked 'Texas Miracle'

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Ten years ago, Texas was known as a “judicial hell hole,” thanks to a torts system that was out of control — and the people who paid the price were the ordinary men, women, and children of the Lone Star State. The story of how that was fixed is a lesson for policy change today.

Nowhere was the situation in Texas in 2003 more dire than in our state’s health care sector. One out of four doctors in Texas had a malpractice claim filed against them each year. Eighty-five percent of all medical malpractice claims failed, but each cost more than \$50,000 to defend. Meanwhile, the number of medical malpractice insurers in the state dropped from 17 in 2000 to four in 2003. Premiums skyrocketed, with Texas’ physicians paying about the same malpractice rates as doctors in New York.

But for all this, it wasn’t providers who suffered most: it was the ordinary Texans who needed care for their families and loved ones — and couldn’t get it. Doctors responded to the crisis by leaving the state, limiting their practice, or retiring early. Texas had one of the lowest doctor/citizen ratios in the country. In Texas’ most litigious counties, the physician shortage was most pronounced. For example, there was not a neurosurgeon south of San Antonio. One hundred Texas counties did not have a pediatrician, and 154 did not have an obstetrician.

In short, the Texas tort system was great for trial lawyers — and terrible for mothers, children, the sick, the injured and the needy. As a mother of four young children myself, I know how important accessible health care is for our children: and we can all empathize with the desperation of the Texas parents and caregivers of a decade past, who sought doctors for their loved ones — and couldn’t find them.

It was time for a change.

In 2003, the citizens changed the makeup of the Texas Legislature. With it no longer beholden to the plaintiffs’ special interests, Gov. Rick Perry declared medical malpractice reform legislation to be an emergency issue.

House Bill 4 became the omnibus tort reform bill, which contained procedural, substantive, evidentiary, medical malpractice and general civil reforms needed to extinguish the litigation crisis. Interestingly, nothing particularly new to American jurisprudence was written in HB 4. The reforms were modeled after laws adopted in other states or procedures used in the federal court system.

The common-sense reforms in HB 4 included juries being allowed to hear more evidence about who may really be a fault, requiring only those individuals who actually cause harm to pay damages and, then, only to the extent of their own fault, and limiting damages to what the plaintiff paid or incurred, not what they were billed.

Perhaps the most important reform was the capping of noneconomic damages at \$250,000 for doctors, with an additional cap of \$250,000 for each of up to two medical care institutions. This provision went to the Texas voters, who approved it in the fall

of 2003.

Ten years later, we can see the benefits of these reforms. As the New York Times put it, "Four years after Texas voters approved a constitutional amendment limiting awards in medical malpractices lawsuits, doctors are responding as supporters predicted, arriving from all parts of the country to swell the ranks of specialists at Texas hospitals and bring professional health care to some long-underserved rural areas."

In May 2005, the American Medical Association removed Texas from its lists of states in crisis. Texas is, so far, the only state to be removed from this list.

The most significant achievement has been the increased access to health care. By the end of 2013, just over ten years after the effective date of HB 4, Texas will have somewhere close to 60,000 doctors to care for its citizens, almost twice as many as it had in 2003.

It's no coincidence that since 2003 Texas has also distinguished itself as the national leader in job growth. Texas is only one major company away from leading the way as the nation's top home for Fortune 500 companies.


Tort reform is not the only reason for the Texas Miracle, but it is a big part of it. Ten years later, the results — not least in better care for Texans of all ages and from all walks of life — speak for themselves.

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