



## Medical Liability Reforms, Patient Safety Efforts Mean Brighter Future for Texas Doctors, Patients

*Since 2004, ENTRI™, the for-profit subsidiary of the AAO-HNS, has sponsored a professional liability program with The Doctor's Company, specifically for AAO-HNS members. The following article, from Richard E. Anderson, MD, Chair and CEO, The Doctor's Company, highlights medical liability reforms that took place in Texas that have begun to result in rate reductions for physicians and better access to quality healthcare for patients.*

When Proposition 12 passed in 2003, it did more than set the stage for a round of decreases in Texas malpractice premiums that have reached 30 percent so far. By limiting the amount juries can award for intangibles such as pain and suffering in medical malpractice claims, it reopened the doors to practice for many of today's doctors and brightened the future for the next generation of Texas physicians.

Proposition 12 created a more competitive market for medical liability insurance, which means more doctors can afford to maintain their practices and patients will have more access to the care they need. And according to a recent physician survey, not only are today's doctors benefiting, but they are encouraging a new generation of physicians within this improved landscape.

### The results show positive outcomes

As a result of reforms that make physicians less vulnerable to baseless malpractice claims, Texas has already seen significant gains in physicians, such as obstetricians, whose practices are considered "high risk" both in terms of the difficulty of the cases they take and their risk of getting sued. Since Proposition 12 passed, according to Texans Alliance for Patient Access, Texas has seen a statewide gain of more than 81 obstetricians, 90 orthopedic surgeons, and 260 emergency medicine specialists. Many underserved areas that had been losing physicians are experiencing gains, and the number of critical specialists—such as neurosurgeons—who treat the toughest cases is growing after declining statewide for several years.

A recent survey of doctors asked whether they would encourage their children to become physicians considering the threat of liability in their state. About half said they would; by comparison, 80 percent of doctors responding to a similar survey in Florida, where the medical malpractice landscape continues to be in crisis, said they would discourage their children from entering medicine because of liability fears.

### The state of medical liability can be better

Texas has gone from a state that the American Medical Association said was "in crisis" three years ago to one in which doctors are once again eager to practice. But the effort to make insurance more affordable shouldn't stop

with Proposition 12; the next step is to use technologies and lessons learned throughout the healthcare community to reduce preventable errors (and therefore the risk insurers must calculate into their premiums).

Insurers can take the lead in helping policyholders and their patients. For example, the Doctors Company has created a Patient Safety Department charged with developing initiatives that will help doctors better understand how they can avoid accidents and errors. One current research initiative of this department is to review all claims settled in 2004 and 2005 to determine what percentage were the result of system problems—such as hospital procedures and medical records—and what can be attributed to physician error. Knowing more about how and where problems are likely to occur will allow healthcare providers to develop systems that target areas in which protections for patients are the weakest.

Healthcare providers are learning more each day about ways to improve outcomes for patients and move them safely through the healthcare system. The whole science

### Proposition 12 Continues to Benefit Texas Providers

Nearly three years after Texas adopted a \$250,000 cap on noneconomic damage awards in medical liability cases, insurers are continuing to lower premiums for medical liability insurance. In March, the Doctors Company announced it would be decreasing premiums by an additional 18 percent on average beginning April 1 for new policyholders and July 1 for renewals. This is the second such reduction by the Doctors Company over the past year and a half, and the carrier estimates that its policyholders have seen premiums reduced by one-third since the adoption of Proposition 12, the 2003 ballot measure that ratified the legislature's passage of a cap on noneconomic damages in medical liability cases.

In addition to triggering lower liability insurance premiums for physicians, Proposition 12 was extremely successful in addressing the medical liability crisis in Texas in other ways. Since its passage, physician recruitment is on the rise, the number of malpractice lawsuits filed has gone down, healthcare has become more accessible, and new malpractice insurance carriers are entering the Texas market. This measure later served as a model for S. 22, which was introduced in the U.S. Senate in early March 2006, but was ultimately defeated.

The Doctors Company is the fifth malpractice liability insurer to announce rate reductions since Texans approved the measure. In addition to the Doctors Company, Medical Protective, Texas Medical Liability Trust, American Physicians Insurance Exchange, and Joint Underwriting Association have also announced at least one reduction in rates since 2003.

of keeping patients safe while they're being treated is still relatively young; for example, it was only a little more than 60 years ago that antibiotics were introduced to combat infections that often made hospital stays more dangerous than the illness or injury that brought the patient through the door. Today, the effort is shifting to foolproofing their increasingly complex systems used by healthcare providers.

### **A hope for the future**

Proposition 12 gave thousands of doctors a new or renewed chance to serve their patients by implementing the reforms needed to lower rates to affordable levels. Innovative programs to reduce errors will increase the availability and affordability of malpractice policies, ensuring that coverage will be there to provide follow-up care and compensation when an accident does occur.

Texas is once again becoming a state where the next generation of doctors can look forward to a fulfilling career, where parents will recommend a life in medicine for their children with enthusiasm rather than trepidation, and where patients will have access in their community to care meeting the highest standards. Thanks to the bold reforms enacted by voters and the Legislature, the practice of medicine in Texas is in a much healthier state.

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