

Liability Reforms Bring More Care, More Doctors to Texans

TMA Five-Year Anniversary Survey Confirms Prop 12 Benefits

Whether it's in the emergency room, the examination room, or the operating room, sick and injured Texans now have more physicians offering more care, thanks to the state's landmark 2003 health care liability reforms. These and many other positive findings stem from the Texas Medical Association's biennial Liability and Access to Care Survey, which measured Texas physicians' actions and attitudes on the fifth anniversary of the Texas reforms and Proposition 12.

The survey uncovered numerous instances of how the liability reforms have transformed what was an extremely troubled health care landscape across Texas. These examples illustrate the findings:

- An emergency medicine specialist in San Antonio helped to save the arm of a 23-year-old woman, whose limb had been amputated above the elbow by farm equipment. "This was a case that ... physicians not fearing malpractice coming out of the worst cases immediately accepted her and made the difference between a normal person or a handicapped one," he said.
- Liability reform saved the life of a five-year-old boy with congenital heart disease. "Without the tort reform, I would not be able to get help for him, due to lack of such specialists in the community," his physician told TMA. "Now he has been able to get his heart surgery."
- A 34-year-old orthopedic surgery resident training in Iowa returned home to practice in the Rio Grande Valley, "which I would NOT have done if the reforms had not passed."
- A 37-year-old plastic and reconstructive surgeon in Dallas manages a program that provides care for a largely indigent population of patients with very complex facial soft tissue and bony injuries. "I would never have even considered such an endeavor with the state of the liability crisis that existed prior to the passage of Prop12," he said. "It has restored an enthusiasm for me to accept challenging cases without the fear of losing the ability to provide for my family."
- An Austin geriatrician says "the great and constant stress of threat of litigation" jeopardized the care of patients in long-term care facilities. "Since the passage of Prop 12, care has improved," she said. "Physicians are interested and willing to practice in the care of the frailest of the frail."
- A 38-year-old Denton physician is "substantially increasing" his high-risk obstetrical practice. "I used to not take very much obstetrics and now I have substantially increased the high risk because of not concerned all the time about being sued," he said.

Other recent data confirms the TMA survey findings. The Texas Medical Liability Trust this week announced another big rate cut and another dividend for renewing policyholders. All told, since Proposition 12 passed, TMLT alone will have saved its insured physicians about \$380 million.

The Texas Medical Board licensed a record 3,621 new doctors this fiscal year; 9 percent more than last year's previous record of 3,324. Texas has licensed 14,499 new physicians post-reform.

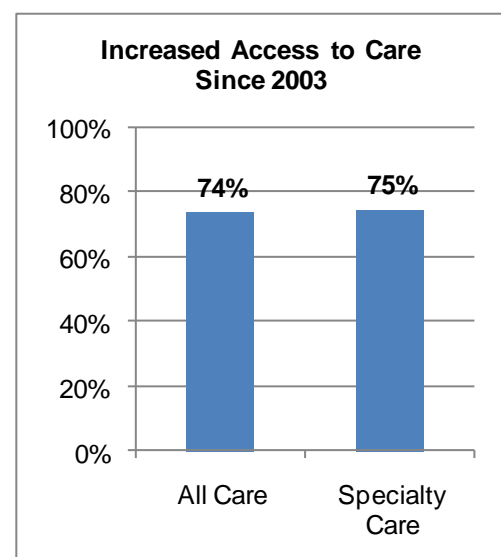
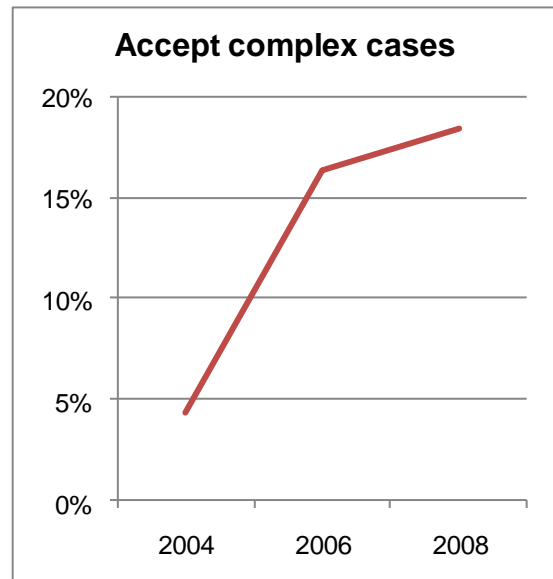
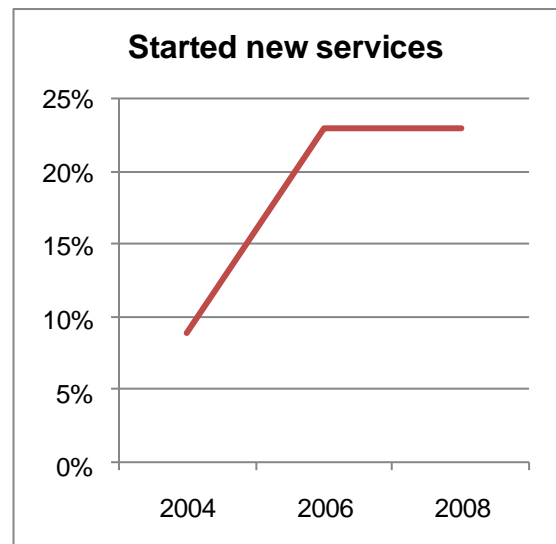
Twenty-one rural Texas counties have added at least one obstetrician since the passage of Proposition 12, including 12 counties that previously had none, the Texas Alliance for Patient Access (TAPA) found. In all, 52 Texas counties have seen a net gain in obstetricians, including 23 medically underserved counties and 21 counties designated partially medically underserved.

Texas Physicians Providing More Services, Caring for More Complex Cases

Prior to the passage of the 2003 reforms, Texas physicians reported massive cutbacks in services they offered to their patients. Many physicians refused to accept patients with complex or high-risk problems, referring them to an increasingly shrinking pool of specialists in tertiary-care centers. All blamed the state's adversarial and dangerous medical liability climate. TMA's 2008 survey found a continued reversal of that trend, which first appeared in our 2004 survey. The percentage of physicians who have stopped providing services to patients continues to shrink, and liability pressures are playing a smaller role in those decisions. Many physicians report adding new in-office procedures and testing, nursing home coverage, and after-hours services. Others say they are now providing more charity care, participating in volunteer programs, and accepting more Medicaid and Medicare patients because of the liability reforms.

The number of Texas physicians who have begun accepting complex or high-risk cases continues to grow steadily. Those doctors overwhelmingly cite the state's improved liability climate for those decisions. The share of physicians who have begun denying or referring those cases now holds steady at less than 10 percent. Numerous obstetricians and anesthesiologists report that they now accept high-risk obstetrical cases, and pediatricians are more willing to care for premature infants. Respondents told TMA they no longer refer patients with chronic pain and they are much more willing to treat patients with multiple complications – including cardiac, neurological, and immune deficiency problems – who they previously would have referred to others.

Physicians across Texas see changes outside of their own practices as well. Those surveyed generally perceive that patients in their communities have better access to health care than they did in 2003. This includes access to all levels of care and to specialty care services (e.g., trauma, pediatric subspecialists, and obstetrics).

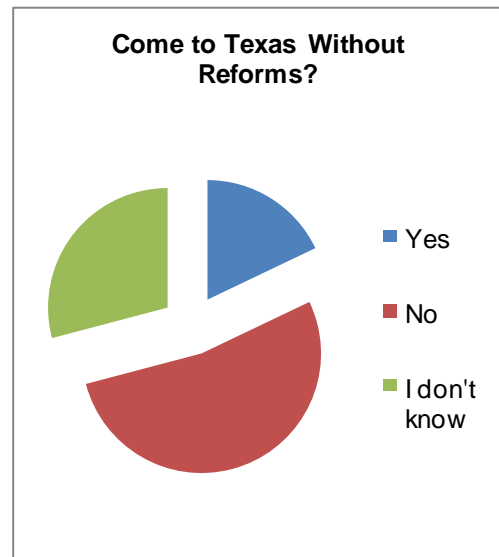
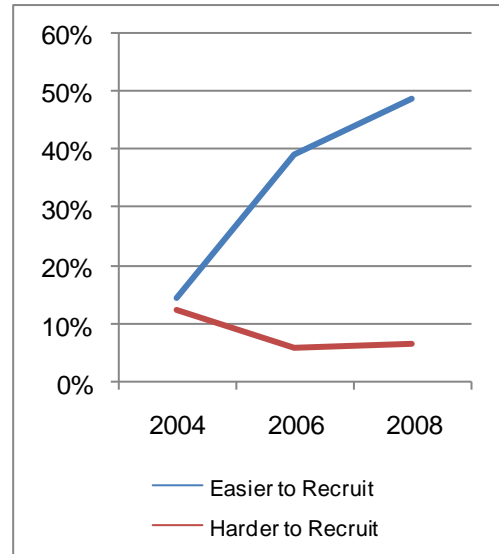


More Physicians, Especially High-Risk Specialties, Coming to Texas

The liability reforms of 2003 have dramatically reversed Texas physicians' ability to recruit new colleagues to the state. And the trend continues to grow more pronounced. Since 2004, more than 90 percent of the physicians who have successfully recruited new physicians to their practice, hospital, or community say the new liability climate was "very" or "somewhat" important in that success. Those who have found it more difficult, a shrinking figure over the past five years, are less and less likely to blame professional liability pressures for their failures.

The new recruits – those who came to Texas to practice since 2003 – hold nearly identical opinions. Of the 127 respondents who were not practicing in Texas in September 2003, 87 percent say the current liability climate for physicians in Texas is "much better" or "better" than the state from which they came. And the vast majority say the Texas professional liability climate was "very important" or "somewhat important" in their decision to begin practicing in Texas. Fewer than one in five say they would have chosen to practice in Texas if the state had not reformed its health care liability laws.

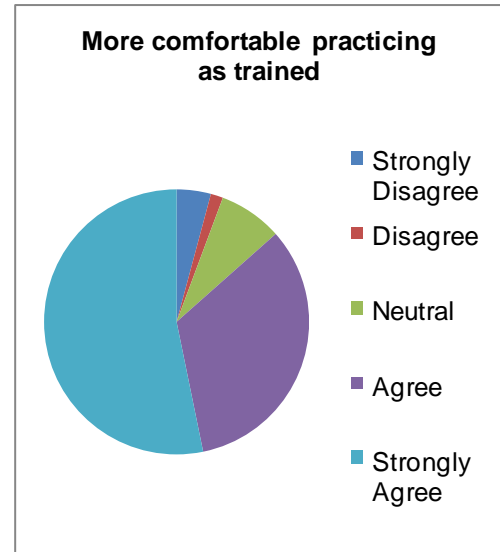
During the health care lawsuit abuse epidemic of the late 1990s and early 2000s, Texas began to experience a dire shortage of physicians in certain specialties that tended to be targets for liability lawsuits, especially those that care for trauma patients. Since 2003, the TMA survey found, efforts to recruit those "high-risk" specialists have been overwhelmingly successful.



Changes in Rates; Changes in Attitudes

Since 2003, all the major liability insurance underwriters for physicians in Texas have reduced their premiums significantly. The reduced risk of liability claims – and the consequent increased competition in the liability marketplace – are responsible for cumulative savings of more than \$400 million for Texas physicians. Since the passage of Proposition 12, Texas has added four new admitted, rate-regulated carriers and 26 risk retention groups, captives, surplus lines, and other unregulated insurers. Three-quarters of the respondents to the TMA survey reported that their liability premiums – for the same coverage in the same geographic region of Texas – have declined since 2003. Nearly 45 percent say their premiums have dropped by 20 percent or more.

The lower costs and reduced risks of lawsuits leave almost every Texas physician with a strong impression that the current liability climate in Texas is vastly better than it was in 2003. Almost 85 percent of the survey respondents rated the current liability climate in Texas as “excellent” or “good.” A similar share “agree” or “strongly agree” with the statement: “Compared with 2003, I now feel more comfortable practicing medicine in Texas as I was trained.”



About This Survey

This report contains a statistical analysis of the results to the TMA 2008 Liability and Access to Care Survey. The results analysis includes answers from all respondents who took the survey from Aug. 14 – Sept. 1, 2008. We received 1,391 completed responses during this time.

Invitations to participate in the online survey were sent via e-mail to 10,000 randomly selected physician members of the TMA. Of those e-mails, 8,973 were delivered to the potential respondent's e-mail address. The response rate was 15.5 percent. The survey results accurately reflect the opinions of Texas physicians in general, with an overall margin of error for questions answered by all respondents of plus-or-minus 2.6 percent.