



BILL RATLIFF

# Texas needs cap on suits

**T**exas is facing a medical liability crisis that threatens the ability of many patients to get the care they need. Some regions of the state are affected more than others. But every county in Texas is facing serious medical problems brought on by excess litigation.

Large numbers of lawsuits that ultimately are dismissed and a few excessively high damage awards have made it more difficult for health care professionals and facilities to afford insurance. Higher liability insurance costs mean higher health care costs for patients and, in many cases, fewer medical services.

In many areas, doctors are restricting their practices and steering clear of high-risk patients due to lawsuit concerns. Emergency room services for head injuries, childbirth and trauma involving small children are in shorter supply because they are considered higher risk.

Forty percent of Texas' counties have no licensed birthing doctor or gynecologist. Many expectant mothers, especially in rural Texas, are getting little or no prenatal care.

Half of the nonprofit nursing homes in Texas have no liability insurance. It isn't that they don't want coverage but that they just can't afford it. The homes are just one unfortunate accident away from bankruptcy.

During the just completed legislative session, lawmakers thoroughly and thoughtfully set out to address the problem. The Senate State Affairs Committee, which I chair, heard 61 hours of testimony involving more than 400 witnesses and every conceivable point of view.

Herein lies the problem: It is unfair not to have available insurance funds to reasonably compensate patients who truly have been harmed.

But it also is unfair to perpetuate a system that permits lawsuits with little or no merit, making insurance unaffordable and health care more expensive and less accessible.

Because some individuals have been able to collect unreasonable damage awards, the rest of us are left with medical services that cost more and are less accessible.

That can't be good public policy. A proper balance had to be found — a balance that ensured lower insurance premiums for doctors and hospitals, reasonable compensation for injured patients and greater access to health care for all Texans.

In the end, lawmakers chose to cap a portion of damage awards in health care lawsuits. The cap applies only to non-economic damages — or those damages awarded for such subjective issues as pain and suffering, mental anguish or a loss of companionship.

Where negligence is proved, injured patients still are entitled to receive all of their economic damages for past and future lost wages, medical bills, custodial care and prejudgment interest.

Even with those caps in place, those negligently harmed still can collect multimillion-dollar judgments where justified. In cases of extreme negligence, victims may receive punitive damages as well.

Our legislative remedy, which has been signed into law by the governor, features a \$750,000 cumulative cap on non-economic damages. It was passed with strong support from both Democrats and Republicans. It is a compromise reached after many hours of deliberations, and I believe it is fair for Texas.

Without a cap, we will continue to see doctors leaving their practices or steering clear of high-risk procedures because they can't afford malpractice insurance.

The Legislature has done its part, but the job isn't done. This solution to the medical care crisis must be put in place immediately. To do that, Texas voters still need to approve Proposition 12 in the Sept. 13 constitutional amendment election.

I encourage Texas voters to say "yes" to Proposition 12.

*State Sen. Bill Ratliff is a Republican from Mount Pleasant.*

*Dallas Morning News*  
July 14, 2003  
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