Medical Liability Survey Report — 2010

Background
In September 2003, Texas passed sweeping medical liability reforms that, among other things, placed caps on noneconomic (pain and suffering) damages against physicians. The current survey, conducted in January and February 2010, is a benchmark of physicians’ actions and attitudes following the state’s landmark reforms.

Methodology
This report contains a detailed statistical analysis of the results to the 2010 Medical Liability Survey. Invitations to participate in the web survey were emailed to 24,918 active physicians in Texas and 4,320 physicians no longer practicing clinical medicine or practicing out of state. Analysis includes answers from 1,099 respondents, for a 4-percent response rate, who took the survey from Jan. 26, 2010, to Feb. 28, 2010.

Findings
Overall, respondents rate the current liability climate in Texas for physicians as good (48 percent) or excellent (41 percent).

Physicians who rate the current liability climate in Texas as poor (1 percent) or even fair (10 percent) comment they have not seen a reduction in their medical liability premiums or are still concerned about the liability risk. Further analysis reveals a significant relationship between physicians’ rating of the current liability climate and changes in their annual professional liability insurance premium. Physicians who rate the liability climate as excellent are most likely to report their premium has decreased (90 percent).
Physicians Who Currently Practice Medicine in Texas in a Clinical Capacity

Physicians report it unlikely they will retire or discontinue clinical practice in the next three years (84 percent). If the 2003 Texas medical liability reforms are repealed by the Texas Legislature or nullified by federal law, however, physicians report the probability of retirement will increase (65 percent). Physicians practicing in surgical specialties are more likely than other physicians to retire or discontinue practice if the reforms are repealed or nullified (73 percent). Physicians who are currently moderately likely to retire or discontinue clinical practice within the next three years are most likely to do so if the reforms are repealed or nullified (89 percent).

If the 2003 medical liability reforms are repealed or nullified, 60 percent of physicians will decrease the hours they work in practice by approximately 37 percent. Older physicians are more likely to decrease their hours.
Physicians in surgical specialties are more likely to report their practice hours will decrease if the medical liability reforms are repealed or nullified (66 percent). Few physicians report their practice hours will increase (6 percent). Those who did report this commented their hours will increase because it is likely a senior partner will retire thus increasing their practice load, or they will increase patient volume to pay for the inevitable increase in medical liability insurance.

Other actions physicians will take if the 2003 Texas medical liability reforms are repealed by the Texas Legislature or nullified by federal law are:

- Reduce or eliminate high-risk procedures (58 percent);
- Implement or expand limits on Medicaid patients (40 percent);
- Reduce or eliminate emergency department call (39 percent);
- Implement or expand limits on Medicare patients (35 percent);
- Move practice to another state (18 percent); or
- Take other actions, including reducing or eliminating obstetrics, charity care, volunteering, complex or high-risk patient cases, or in-office testing or procedures; reducing practice overhead (i.e., staff benefits and investing in new technology); and practicing defensive medicine (8 percent).

Older physicians are more likely to report they will take no action, and younger physicians are more likely to move their practice to another state. Physicians in the youngest age group (40 and under) and physicians in surgical specialties are more likely to report they will reduce or eliminate emergency department call (44 percent and 60 percent respectively). Physicians in surgical specialties are also more likely to reduce or eliminate high-risk procedures (69 percent) and implement or expand limits on Medicaid patients (47 percent).
Physicians Who Were Practicing Medicine in Texas in September 2003

Of physicians who are currently practicing medicine in Texas in a clinical capacity, the majority were practicing medicine in Texas in September 2003 (78 percent). These physicians rate the professional liability climate for physicians in Texas today as much better or better in comparison with the climate before September 2003 (95 percent).

Physicians in surgical specialties are more likely to report the professional liability climate as much better (88 percent).
Compared with 2003, physicians strongly agree or agree they now feel more comfortable practicing medicine efficiently in Texas (86 percent), patients in their community have better access to all levels of health care (72 percent), and patients in their community have better access to specialty care services (75 percent).

Since September 2003, few physicians have stopped or decreased providing certain services to their patients (14 percent). Not surprisingly, older physicians are more likely to report having done so.
Physicians, who have stopped or decreased providing certain services to patients, report having decreased or eliminated the following:

- Medicaid participation (27 percent);
- Obstetrics (20 percent);
- Charity care (15 percent);
- After-hours services and volunteering (14 percent);
- Nursing home coverage (13 percent);
- Medicare participation (12 percent);
- High-risk obstetrics (10 percent);
- Other high-risk procedures or cases (9 percent);
- Hospital coverage, including both emergency and inpatient care (9 percent);
- Imaging or other diagnostic testing (7 percent);
- Pediatric services (7 percent); or
- Other services, such as in-office procedures and testing (29 percent).

Primary care physicians are most likely to report having stopped or decreased obstetrics (39 percent), high-risk obstetrics (22 percent), and nursing home coverage (24 percent).
The professional liability climate plays a smaller role in physicians’ decisions to discontinue certain services. While 56 percent of physicians rate the professional liability climate as very important or important, a large minority of physicians rate the professional liability climate as unimportant or of little importance (34 percent) in their decision.

Since September 2003, 45 percent of physicians have started providing new services to their patients, with younger physicians more likely to have started or increased doing so.

Physicians report having started or increased:

- Charity care (31 percent);
- Imaging or other diagnostic testing (30 percent);
- Medicaid participation (22 percent);
• After-hours services (22 percent);
• Volunteering (20 percent);
• Medicare participation (13 percent);
• Nursing home coverage (5 percent);
• High-risk obstetrics (5 percent);
• Obstetrics (2 percent); and
• Other services, including high-risk and in-office procedures (38 percent).

Physicians age 40 and under are more likely to have started or increased nursing home coverage (17 percent) and volunteering (36 percent). Primary care physicians are more likely to have started or increased high-risk obstetrics (12 percent). Physicians in surgical specialties are providing more charity care (43 percent).
Physicians who have started providing new services to their patients report the professional liability climate as very important or important in their decision to do so (80 percent).

Since September 2003, twenty-eight percent of physicians have begun accepting more complex or high-risk cases that they previously referred or denied. The percentage of physicians who have begun denying or referring complex or high-risk patients remains at less than ten percent, similar to results found in the 2008 survey.
Younger physicians are more likely than older physicians to report accepting more complex or high-risk cases. Specialists are more likely to have begun accepting more complex or high-risk patients (34 percent), indirect access physicians are more likely to have made no change (74 percent), and surgical specialists are more likely to have begun denying or referring complex or high-risk patients (13 percent).

Physicians who have begun accepting more complex or high-risk cases previously referred or denied, report accepting the following:

- Patients with multiple complications (70 percent);
- Charity care (41 percent);
- Medicaid patients (34 percent);
- Medicare patients (28 percent);
- Chronic pain patients (24 percent);
- Nursing home cases (13 percent);
- High-risk obstetrics (12 percent);
- Premature infants (6 percent);
- Obstetrics (4 percent); and
- Other cases, including high-risk surgical cases and inpatient cases (12 percent).

Physicians in the youngest age group (40 years and under) are more likely to report accepting nursing home cases (30 percent). Primary care physicians are more likely to report accepting obstetrics (10 percent), high-risk obstetrics (29 percent), and premature infants (16 percent).
Physicians who are accepting more complex or high-risk cases report the professional liability climate as very important or important in their decision to do so (96 percent).

Primary care physicians are more likely than other physicians to report the professional liability climate as a very important factor in their decision to accept these cases (80 percent).

Before the 2003 liability reforms, physicians’ report working in practice a median of 50 hours per week with approximately zero hours in emergency department practice and five hours seeing high-risk patients or doing high-risk work. In 2009, physicians’ report a median of seven hours per week seeing high-risk patients or doing high-risk work. Physicians report the professional liability climate was very important or important in their decision about total hours worked in medical practice (40 percent), emergency department practice (35 percent), and seeing high-risk patients or doing high-risk procedures (53 percent).
Physicians in surgical specialties and in Harris County are more likely to report the professional liability climate was very important in their decision about hours worked in emergency department practice (24 percent and 22 percent respectively).

If liability reform had NOT been enacted in 2003, physicians report their total medical practice hours would have decreased (47 percent) or remained the same (49 percent) in 2004. Older physicians are more likely to report their hours would have decreased.

Physicians in rural counties are most likely to report total medical practice hours would have decreased in 2004 (57 percent).

Since September 2003, physicians who have tried to recruit new physicians to their practice, hospital, or community report it easier to do so (89 percent).
Physicians who tried to recruit new physicians report the professional liability climate as very important or important in their ability to do so (82 percent).

![Pie chart showing the importance of the professional liability climate in ability to recruit new physicians.](image)

Similar to 2005, physicians who have found it more difficult (11 percent) are less likely to blame professional liability pressures.

Physicians have been overwhelmingly successful in their attempts to recruit certain “high-risk” specialists since 2003.

![Bar chart showing successful attempts to recruit specialists since 2003.](image)
Physicians age 40 and under have been most successful in their attempts to recruit emergency medicine specialists (100 percent) and orthopedic surgeons (100 percent). Indirect access physicians are most likely to report success with emergency medicine specialists (97 percent). Primary care physicians are most likely to report success recruiting obstetricians (97 percent).

The majority of physicians who are currently providing direct patient care and were practicing medicine in September 2003 are also practicing in roughly the same geographic area of Texas as they were practicing in 2003 (94 percent). These physicians report their annual professional insurance premium (with discounts) has decreased in comparison with their 2003 premium (85 percent).

Physicians in Tarrant County are most likely to report their premium has decreased (94 percent).
From 1999 through 2003, 51 percent of physicians received notice of a professional liability claim zero times. From 2004 through 2008, 85 percent of physicians received notice of a professional liability claim zero times.

Other than defense costs incurred by a physician’s insurer, total personal legal fees for claims received from 1999 through 2003 were, on average, $5,951. From 2004 through 2008, personal legal fees were $1,817. Further, the percentage of physicians who report $0 in personal legal fees has increased from 85 percent to 94 percent.
Physicians Who Were in a Residency or Other Training Program or Were Practicing Medicine in another State in September 2003

Of physicians who are currently practicing medicine in Texas in a clinical capacity, 21 percent were in a residency or training program, or were practicing medicine in another state in September 2003. These physicians began clinical practice in Texas, on average, in 2006. The majority of these physicians report the Texas professional liability climate was very important or important in their decision to practice in Texas (85 percent).

The professional liability climate was listed as one of three top reasons to practice in Texas for 71 percent of respondents. If the state had not reformed its health care liability laws, 48 percent of physicians report they would not have chosen to practice in Texas, while an additional 42 percent of physicians don’t know if they would have done so.
Six percent of physicians were practicing medicine in another state in September 2003. These physicians report the current Texas liability climate for physicians in comparison with the liability climate in the state where they were as much better or better (80 percent).

**Comparison of Current Texas Liability Climate for Physicians with Liability Climate in the State In**

- Much better: 61%
- Better: 18%
- About the same: 19%
- Worse: 2%

**Physicians Who Do Not Currently Practice Medicine in Texas in a Clinical Capacity**

Few respondents (8 percent) do not currently practice medicine in a clinical capacity. Of these physicians, the majority had practiced medicine in Texas in a clinical capacity (87 percent), having stopped, on average, in 2003. In the two years prior to stopping, the physicians report practicing medicine in their clinical practice approximately 53 hours per week.
Physicians who are not currently practicing medicine in a clinical capacity are:

- Retired (57 percent);
- Doing full-time work other than clinical practice (8 percent);
- Doing part-time work other than clinical practice (5 percent);
- Practicing in another state (23 percent); or
- Other, including locum tenens work (7 percent).

Older physicians are more likely to be retired or doing part-time work other than clinical practice while younger physicians are more likely to be practicing in another state.
Respondents report the professional liability climate was a factor in their decision to discontinue clinical practice in Texas (33 percent). If the liability climate had been more favorable, they would have continued their Texas clinical practice approximately nine more years. Physicians currently practicing in another state would have continued their Texas clinical practice an additional 25 years. While there is not a significant relationship between physician age and the professional liability climate as a factor in their decision to discontinue clinical practice in Texas, there is a significant difference in the mean number of years physicians would have continued had the liability climate been more favorable.

**All Physicians**

Physicians were given an opportunity to add to information not captured in the survey. Their views and experiences, in their own words, are as follows:

**Improved Liability Climate**

- [The] climate is not nearly as hostile. [There is] more emphasis on discussing medical errors with patients [and] less defensive practice (i.e., tests, scans, etc.).
- This was the single most important step taken by the Texas legislature to improve the overall medical climate in the state.
- Reform not only makes the climate better for physicians, but many physicians have moved to Texas from other states ... bringing with them clinics, jobs, and … dollar[s] to Texas.
- I am very pleased with the liability climate in Texas. I would be very reluctant to practice in a state that lacked tort reform.
- [It] has been a great improvement for medical care in Texas.
- I am grateful to be in Texas, especially since the Illinois Supreme Court just nullified the Illinois tort reform law.
- I am proud of the medical liability reforms present in Texas.
- Medical liability reform has allowed physicians to be physicians.
- Sanity has returned to Texas medicine.
- The 2003 medical liability reforms were a very needed and positive step on the out-of-control malpractice lawsuit front.
- The best thing that happened for doctors here in Texas. It is nice to practice medicine in a way that is best for [the] patient.
- The reforms made the practice of medicine much more enjoyable and satisfying for my patients and me.
- The rewards of practicing medicine, the joy in helping others, have regained their rightful place in Medicine.
- Tort reform has made Texas a much more attractive state for the practice of medicine.
- Tort reform: very positive action for physicians and health care in Texas!!
- [Medical liability reform] made Texas a better place to practice as a physician. My father-in-law and sister-in-law closed their practice in West Virginia, as it was a hostile malpractice environment.
- I have heard that Texas is a physician-friendly place to practice medicine. I wish we could get similar legislation passed here in North Carolina.
- It is a step in the right direction that … the rest of the country should follow.

**Improved Patient-Physician Relationship**
- It is hard to express how much the reform has meant to me. It has affected how I relate to patients and allowed me to provide care that would otherwise be unavailable.
- I can enjoy taking care of my patients.
- I no longer view patients as potential adversaries. I am more likely to try new and innovative procedures.
- Trust in the doctor-patient relationship has improved. Satisfaction in the practice of medicine has improved. The cost of practicing medicine has decreased.
- Bonding with patients is a lot better, making healthcare to be done without defensive medicine patterns. More new physicians recruited to underserved and rural areas due to [a] friendly environment. Made the practice of medicine more affordable and pleasant.
- I feel a lot more comfortable with patients. … I worry less about being sued. Our budget is better with the lower insurance premiums.
- This has allowed me to practice medicine how I was trained, taking care of the patient as opposed to hesitating about many decisions.
- The daily headache of unwarranted lawsuits is almost gone from my practice. I fear major complications and causing a patient harm, but only out of concern for care. Previously, I feared the lawsuit more than the inherent risks in caring for patients.
Since the 2003 tort reform, I have been able to practice medicine with [the] sole purpose of helping the patient without the continuous fear of being sued.

**Improved Physician Morale**
- The frivolous suits have stopped. My stress levels have fallen. I feel good about the practice of medicine.
- There is a general sense of peace about doing what I do that I did not experience before. In simple terms, I don’t feel like I am practicing in order to be able to answer plaintiff lawyers’ interrogations any more.
- You cannot imagine how bad malpractice stresses are elsewhere. Here we at least have a chance to practice medicine without daily fear of problems.
- Liability reform makes practicing medicine enjoyable again.
- I do not practice in fear.
- I do not worry as much about lawsuits.
- It is hard to quantify the things you do when you are constantly worried about being sued. You can’t put a dollar value on those habits.

**Delayed Retirement or Discontinuation of Clinical Practice**
- If the liability protection had occurred before I retired, I would have worked more years, but the risk got too great to continue at the time.
- I was going to leave Texas before the reform. If the reforms were repealed, I may stay but limit my practice.
- The 2003 reform is the only reason I stayed in medicine in Texas. I was really considering moving my practice to another state or retiring entirely.
- I was very close to closing my practice if the 2003 medical liability reforms had not passed.
- I was preparing to leave Texas before 2003. If the reforms were repealed or nullified I would leave Texas to practice elsewhere.
- I was sued in 2006. I was so bitter about the case that I now take every fourth week off. I would have quit years ago had tort reform not passed in Texas.
- I would not be in practice today if it were not for the 2003 reforms.
- I was an emergency room doctor in [the] 90s, and I had to stop practicing because of liability. After tort reform I am back practicing. It has been a career saver.
- [I] went to a different state to practice, but came back to Texas because of lower insurance and tort reform.
- I was being sued as an attachment to another doctor’s suit when liability reform passed. They dropped the suit. A lawsuit would have drastically affected my personal and professional life, and if liability reforms are repealed I may very well quit medicine.
Although I would not retire if liability reforms were reversed, my senior partner certainly would, resulting in a huge loss to our medical community and an increase in workload for the rest of the group.

I am a practicing emergency physician in Texas, and have looked to move part-time to Colorado, but they are unable to match the gains we have achieved in 2003.

If the medical malpractice law were to be repealed I would move … closer to other family.

If the tort reforms were repealed, I would probably retire early.

If the 2003 medical liability laws [were] repealed I would leave practice and retire. I cannot even begin to explain how our world has improved since the 2003 tort reform legislation passed. We have expanded services, added offices to underserved outlying communities.

The tort environment is so good in Texas compared to other states that I am not able to relocate as I planned to do several years ago. I want to practice in Florida, but the tort environment [there] is terrible compared to Texas.

**Increased Number of Physicians**

I am considering returning to practice. Tort reform is a factor in that decision.

[The] 2003 medical liability reform is the single most important reason why I came to Texas.

[I was] a medical student in Texas when tort reform passed. The improved practice environment due to tort reform is THE reason I chose to come back to Texas to practice emergency medicine.

Crucial issue in drawing me and other obstetricians to move to Texas.

I boiled down my choices post-fellowship to two serious contenders. One in Texas and one in a state that does not have any tort reform, but paid me $100,000 per year HIGHER. I chose Texas BECAUSE of the tort reform.

I have 4 medical licenses. Tort is one of the top reasons I picked Texas to practice and live!

I left Nevada soon after the law changed. As I was moving, Nevada also implemented malpractice reform, but it was less favorable than Texas. I took a huge pay cut to move here and have no regrets.

I will be returning to Texas after fellowship to practice. This is primarily due to the excellent medico-legal environment for Emergency Medicine physicians.

If liability reform had not taken place, I would not have moved to Texas and started practicing. I did my residency in Missouri, a state without medical liability reform. I saw how that changed physicians’ practice patterns and the toll it took on my attending [physicians].

I was recruited to work in a medically underserved area in Texas with the incentive of the 2003 medical liability reform.

I currently moonlight in Texas due in part to reforms in liability in Texas. I am currently an active duty military ER physician and would not work in many states due to medical liability issues.

I am an emergency physician so I could not change what I do in response to liability reform, but it has made it incredibly easier to attract new emergency physicians to the state and have more specialists to care for patients.
• I am on the board of a large multi-specialty clinic that strives to provide comprehensive medical care to the county. Tort reform made it possible to recruit physicians from other states to expand our services.
• Since tort reform, we continue to receive more physician applicants from other states than we did before tort reform — a significant boost to patient care and the economy.
• It has helped physicians and patients as physicians are moving back into areas of Texas that were hit hard by the malpractice environment, and it is attracting many physicians from other states that have more liability issues and higher cost.
• Texas is a model for the rest of the country in terms of medical liability reforms. I remember a time when almost all the neurosurgeons left Austin. After the reforms, they came back in droves.
• I have seen other excellent physicians come to this state because the liability climate is so much better.
• I see 1-2 new physicians interviewing in our 120-bed, suburban hospital per month now. Before tort reform [we] maybe saw 1-2 every 1-2 YEARS. Many are from out of state and are looking at Texas because of our reasonable laws.
• More Physicians WANT to practice in Texas because of the tort reform.
• Prop 12 saved the practice of medicine in this state. We are now able to get neurosurgeons, orthopedic surgeons, and coverage that we could not prior to 2003.
• Reform must stay … otherwise I expect more physicians to quit or restrict their practices including myself.
• Relocated from Chicago, as in Illinois the medical malpractice reform was overturned by the state supreme court. You cannot practice quality medicine, not to mention Obstetrics, without any protection from unwarranted malpractice litigation.
• Since 1997 when I graduated from medical school, I watched the malpractice culture in Texas and Florida. These were the only two states in my consideration. The liability reform had major impact on Texas medicine and pretty much made the decision for me.
• The medical liability position in Illinois, where I was previously, was unworkable. They were losing a significant number of physicians, including myself. I give better care to my patients because of these reforms.
• Without the medical liability reforms, I would not have considered practicing medicine in Texas.
• These reforms are essential to the recruitment and retention of highly qualified physicians and surgeons in this state with such a large uninsured population. The rest of the U.S. should follow our example.
We have added 3 physicians to [our] rural clinic and hospital [in] Internal Medicine, Emergency Medicine, and General Surgery since 2007. [We are] seeing additional East Coast doctors looking to Texas locales, rural and otherwise.

There is no question that Texas will continue to see increases in out of states’ licensure applications because of the doctor friendly environment in Texas.

The liability reform has very much helped the physician shortage in Texas, making us a favorable state to practice for those docs looking to get out of a bad situation in their own state. That’s good for Texas patients and reduces the burden on Texas physicians.

Since the reform, I have considered moving back to Texas, even though liability was not the main reason for my relocating.

Tort reform is a huge win for patients. If we lost this, many physicians that recently moved to Texas will leave, including me.

Should liability reforms be removed, I already have plans in place to work in areas other than healthcare.

**Increased Access to Quality Care**

I stopped practicing obstetrics due to the liability concerns. Of the doctors I know practicing obstetrics; many would stop if the liability reforms were removed.

The reform was fundamental in providing access … since more physicians are choosing to stay in South Texas. The overall climate of the practice improved and certainly the costs of medical liability insurance dropped significantly.

I continue my coverage [of] charity patients. I could not do that at the old rates and these patients would have gone untreated or [would] have been a burden on my practicing colleagues.

Indeed the liability reforms of 2003 have improved accessibility to care by attracting high-level specialists to Texas. It also has made malpractice insurance more affordable and accessible.

Academic and county institutions received special protection, [which] has increased the access to care for the poor and uninsured.

Because of a physician-friendly liability situation in Texas, I am able to provide low-income patients services I would likely not provide if the liability situation was lawyer-friendly.

I am able to not only see more high-risk patients, but practice medicine in a less defensive way. I think that the liability reform is critical for keeping down health care costs.

Texas liability reform … played a crucial role in my decision to handle complicated patients.

I have not raised fees in about 8 years. Reduced malpractice rates are one reason, along with lower costs from not doing defensive lab and imaging studies. I do a more thorough job of assessing my patients and documenting my findings than ever before.

I have the only psychiatric office for 150 miles. In 2005, liability costs had dropped so much I could open a par- time practice and afford the cost.

I now work as a hospitalist seeing many emergent obstetrical patients and low-resource patients.
• If tort reform was reversed, I would likely have to move my practice from the current rural location.
• It is important that 2003 medical liability reforms be kept in place. It allows patients better access to care in different areas, allows control of malpractice insurance costs, and allows physicians to practice less defensive medicine.
• It is the best thing to help physicians actually take care of sick people. Liability will always make physicians scared to take care of greater numbers and sicker patients.
• Liability reform allows me to comfortably and successfully treat patients in desperate need of spine care.
• Patients have better access and receive better care that is more efficient and cost effective.
• Without tort reform, the cost of practicing medicine in Texas would be greater than the reimbursement for many surgical subspecialties. … Patients would lose access to … specialty care.
• Without tort reform, most of my colleagues and I would be very hesitant to practice medicine in Texas or take … high-risk patients. It is extremely important to keep tort reform so that physicians can continue to provide quality care to patients that need it.
• Without tort reform, it would be very difficult to maintain the current level of care.
• The 2003 reforms were vital for access to health care for Texans.
• The ability to afford practice in rural communities is definitely aided by tort reform. El Paso receives rural rates for Medicare payments. Without decreasing the costs of liability, attracting physicians to practice here is difficult.
• The benefit has accrued to patients and communities as qualified physicians have moved to Texas. Access to quality specialists in places such as San Angelo, Victoria, and Tyler save patients long, time-consuming commutes into urban areas.
• The reform helped [me] continue practice in Ob/Gyn until 2009. I would still be practicing except for the payments from insurance companies.
• These reforms have reduced the stress of practicing medicine. If [they were] repealed … most doctors that I know will close their doors!
• Tort reform as it is in Texas should be expanded to all the other states as well … to ensure the growing number of U.S. patients continue to have access to health care services.
• Tort reform has been a huge success in allowing me to provide better and expanded care for patients, including the indigent. I have seen an increased willingness of colleagues to participate in residency teaching/education due to tort reform!
• My patient load has increased over the last 6 years. The number of MRIs and CT scans that I order has dropped 50%. It is no longer an initial test. I feel more protected making a clinical judgment.
• Medical liability reform is absolutely essential to our ability to provide high-quality care for Texans.
• I do not think malpractice suits improve patients’ care. It is not about being right or wrong, [it] is about who has the most successful lawyer and resources when suing.
**Decreased Professional Liability Claims and Insurance Premiums**

- The reforms have streamlined and made more fair and reliable the medical malpractice claims. I have seen a significant reduction in false, nonmeritorious claims and only claims with actual damages progress. It has helped recruit new doctors to Texas.
- This liability reform is one of the most significant changes to protect doctors from frivolous lawsuits.
- Reduced and stopped frivolous claims.
- Frivolous malpractice claims have stopped coming to the office.
- I had one frivolous suit between 1999 and 2003 which was “non-suited” or withdrawn. I have had NO suits since then. I can focus on the best care for my patients and not so much on protecting myself in case of a suit!
- Before the tort reform, there was at least one lawsuit against doctors in our city every 3 weeks. Since tort reform was enacted, there is possibly one lawsuit every several months.
- Definitely has reduced the number of claims without merit in the community.
- I can now practice medicine without the fear of being sued for acts I did not commit. Frivolous claims appear to have diminished or gone away.
- I was sued 4 times prior to 2003, beginning in medical school. All were non-suited, but were a major stressor for me and my family. None since 2003.
- Number of frivolous lawsuits has significantly gone down and patient care has improved.
- There has been a dramatic decrease in the number of malpractice filings and a dramatic decrease in my malpractice insurance.
- [Reform] stopped [the] exodus of insurers from [the] state and allowed groups such as mine, with a lower than average risk for our specialty, to obtain insurance.
- The risk of lawsuits was peaking in 2003, driving up the costs of insurance, and my company left Texas at that time. Since 2003, my premiums have been reduced by 62%.
- After 2003, my medical liability insurance went from $167,000 to $85,000!
- My liability insurance premium … has fallen from $100,000 before reform to $14,000 now!
- I have had a 65% reduction in malpractice insurance premiums and have had access to more carriers because of tort reform. In this terrible economy, that cost reduction significantly impacts my bottom line.
- In 2003, my liability insurance in Oklahoma was $250,000. I was not even making this kind of money. I retired. A colleague convinced me to come and work in Texas. My insurance in 2005 was $25,000.
- My malpractice premiums were $60,000 per year prior to 2003. After medical liability reforms it dropped to $27,000 per year. Without reform, I would have probably been forced to change professions.
- My premiums have gone down more than 50%. If they were still at 2003 rates, I would be out of business.
- Medical liability insurance premiums have decreased every year since 2003. If we went back to the escalating costs seen before 2003, I believe most internists (primary care) would retire or change practice.
- Liability insurance was threatening to prevent [me] from providing effective pain care to my patients.
- Due to my decreased malpractice premiums I was able to keep the cash-pay rate the same for the last 4 years.
- I am a pathologist. Because my medical liability premiums have dramatically decreased, I have been able to volunteer part time as medical director of small hospital laboratory.
- Liability reform has enabled our practice to reinvest in our patient care infrastructure, such as electronic medical records, with the money we have saved from reduced insurance rates.
- Medical liability reform in Texas is great. My premiums through TMLT have gone down significantly, and I have increased my emergency room and high-risk surgeries significantly. The whole country needs such reform.
- My insurance rates have dropped 40% since 2004, making it easier to begin a new practice and grow the practice, increasing access for patients.
- Our large group has been able to self-insure, and that has freed up money to improve the services we offer to patients.
- Professional liability insurance premiums declined, and [it] became easier to attract new members to our large radiology group.
- The reduction in premiums has allowed me to continue seeing Medicare and no/low-pay patients that I would otherwise not be able to see.
- The reform allowed my premium to be reduced to a level that allowed me to stay in practice part time; with a claims-free discount … otherwise I would have had to quit practicing medicine due to all of the managed care fee reductions.

**Decreased Defensive Medicine**
- As an Emergency Department physician, I can practice less “defensive medicine” to protect myself from frivolous lawsuits so overall healthcare costs are lowered.
- Because of the medical liability reforms, I no longer have to practice “defensive medicine” for the majority of my patients. I no longer fear taking a high-risk patient, and I can afford to offer discounted or charity care to more people who need it.
- Because of tort reform I have only ordered tests that I thought were necessary. I treat the patient instead of the personal injury attorney behind them.
- Having malpractice reform allows doctors to practice good medicine, not defensive medicine.
• I am a Medical Examiner. The office is now spending far less time on sending records to and giving depositions for attorneys. It’s a remarkable turnaround. The extra time is spent on death investigation, as it should be.
• In doctor’s dining room now, you never hear “you better do this or you might get sued.” Now you hear, “you don't need to do that. It's not cost effective.” A complete change in attitude.
• It seems the threat of malpractice is less on the forefront [of] my clinical judgment than in previous years. I have more freedom to think clinically and less defensively.
• Laws regarding emergency care (wanton and willful intent to harm required) have significantly improved patient care by allowing physicians to perform what is clinically best and best based on evidence-based emergency medicine guidelines.
• Liability reform in Texas allows me to practice good medicine. I don’t ever feel I have to perform a procedure or get a test … to “rule out” some bizarre, zebra condition.
• Liability reform increases the fact that physicians practice less defensive medicine and are willing to work with Medicaid and Medicare patients.
• The 2003 medical liability reforms have been a blessing for my practice and for my patients. I feel I can serve them better without having to practice defensive medicine.
• The medical climate in Texas allows physicians to concentrate more on the appropriate treatment for the patient and less [on] thoughts of defensive medicine which leads to wasted resources and spending.
• Tort reform allowed me to practice more along “clinical evidence” rather than “defensively.” It should be a nationwide policy!
• Tort reform has encouraged me to practice good medicine and not defensive medicine where multiple tests are ordered. Defensive medicine will ultimately increase the cost of healthcare. If there was no tort reform, I would not even consider practicing in Texas.
• Tort reform made medical practice in Texas more attractive. Less fear of malpractice allowed me to take better care of my patients without practicing “defensive medicine.”
• When speaking to my colleagues in other states (e.g., Pennsylvania), I am amazed by the wasted time and public money, the excessive testing, and the delay of patient care that is a direct result of physicians fear of litigation.

Demographics
Respondents were 40 years and younger (18 percent), 41 to 50 (28 percent), 51 to 60 (31 percent), and 60 and over (23 percent).

They were male (81 percent), female (18 percent), or unspecified (1 percent).

Respondents were from out of state (3 percent), rural counties (6 percent), Dallas (13 percent), Harris (17 percent), or other metro counties (62 percent).
Physicians’ specialties included primary care (35 percent), surgical specialties (16 percent), indirect access specialties (18 percent), and other specialties (31 percent).

Respondents practice in group sizes of one physician (36 percent), two to three physicians (19 percent), four to eight physicians (19 percent), and nine or more physicians (27 percent).

Twenty-two percent of respondents have practiced clinical medicine as part of the U.S. military.

Other than Texas, respondents have lived and practiced clinical medicine in other zero other states (44 percent), one other state (32 percent), or two or more states (24 percent).
Survey Instrument

2010 Medical Liability Survey

In September of 2003, Texas passed sweeping medical malpractice liability reforms that, among other things, placed caps on noneconomic (pain and suffering) damages against physicians. Please take a few moments to help us further document the changes in the health care climate that have accompanied the 2003 reforms. All your answers are confidential and only aggregate data will be reported.

1) How would you rate the current liability climate in Texas for physicians?
   - Excellent
   - Good
   - Fair
   - Poor
   - Terrible

2) Do you currently practice medicine in Texas in a clinical capacity, providing direct patient care?
   [NOTE: You must answer this question.]
   - Yes (Skip to question 9)
   - No

3) Have you ever practiced medicine in Texas in a clinical capacity?
   - Yes
   - No (Skip to question 50)

4) In what year did you stop practicing medicine in Texas? _______

5) Approximately how many hours per week did you practice medicine in your clinical practice in the two years prior to stopping? _____

6) Are you currently:
   - Retired
   - Doing full-time work other than clinical practice
   - Doing part-time work other than clinical practice
   - Practicing in another state
   - Other (please specify): ________________________

7) Was the Texas professional liability climate a factor in your decision to discontinue clinical practice in Texas?
   - Yes
   - No (Skip to question 50)

8) If the liability climate had been more favorable, approximately how many more years would you have continued your Texas clinical practice? _______ (Skip to question 50)
9) In September 2003, you were:
   - Practicing medicine in Texas. (Skip to question 15)
   - In a residency or other training program. (Skip to question 11)
   - Practicing medicine in another state. (Please specify the state): _______________

10) How does the current Texas liability climate for physicians compare with the liability climate in the state where you were in September 2003? Is Texas today:
   - Much better
   - Better
   - About the same
   - Worse
   - Much worse

11) In what year did you begin clinical practice in Texas: _____

12) List briefly the top three reasons you decided to practice in Texas.
   a) _________________________________
   b) _________________________________
   c) _________________________________

13) How important was the Texas professional liability climate in your decision to practice in Texas?
   - Very important
   - Important
   - Moderately important
   - Of little importance
   - Unimportant

14) Would you have chosen to practice in Texas if the state had not reformed its health care liability laws?
   - Yes (Skip to question 43)
   - No (Skip to question 43)
   - I don't know (Skip to question 43)

15) How would you compare the professional liability climate for physicians in Texas today with the climate before September 2003?
   - Much better
   - Better
   - About the same
   - Worse
   - Much worse
16) Using the scale below, please rate how strongly you agree or disagree with these statements:

<table>
<thead>
<tr>
<th>Compared with 2003, I now feel more comfortable practicing medicine efficiently in Texas.</th>
<th>Strongly Disagree</th>
<th>Disagree</th>
<th>Neutral</th>
<th>Agree</th>
<th>Strongly Agree</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compared with 2003, patients in my community have better access to all levels of health care.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Compared with 2003, patients in my community have better access to specialty care services (e.g., trauma, pediatric subspecialists, obstetrics, etc.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

17) Since September 2003, have you either stopped providing or decreased providing certain services to your patients?
- Yes, I have stopped providing or decreased providing certain services.
- No, I have not decreased or stopped services. (Skip to question 20)

18) What services have you stopped since September 2003? (Check all that apply.)
- Obstetrics
- High-risk obstetrics
- Nursing home coverage
- After-hours services
- Charity care
- Volunteering
- Medicare participation
- Medicaid participation
- Imaging or other diagnostic testing
- Other high-risk services (please specify): ______________________________________________________________________

19) How important was the professional liability climate in your decision in the previous question?
- Very important
- Important
- Moderately important
- Of little importance
- Unimportant

20) Since September 2003, have you started providing new services to your patients?
- Yes, I have started providing new services.
- No, I have not started providing new services. (Skip to question 23)

21) If you started providing new services to your patients, which of the following services have you started since September 2003? (Check all that apply.)
- Obstetrics
- High-risk obstetrics
- Nursing home coverage
- After-hours services
- Charity care
☐ Volunteering
☐ Medicare participation
☐ Medicaid participation
☐ Imaging or other diagnostic testing
☐ Other high risk services (please specify): ____________________________

22) How important was the professional liability climate in your decision in the previous question?
   ☐ Very important
   ☐ Important
   ☐ Moderately important
   ☐ Of little importance
   ☐ Unimportant

23) Since September 2003, have you: (Check all that apply.)
   ☐ Begun denying or referring complex or high-risk cases? (Skip to question 26)
   ☐ Made no change in how you handle complex or high-risk cases? (Skip to question 26)
   ☐ Begun accepting more complex or high-risk cases that you previously referred or denied?

24) What types of cases have you begun accepting? (Check all that apply.)
   ☐ Obstetrics
   ☐ High-risk obstetrics
   ☐ Nursing home cases
   ☐ Charity care
   ☐ Medicare patients
   ☐ Medicaid patients
   ☐ Premature infants
   ☐ Chronic pain patients
   ☐ Patients with multiple complications
   ☐ Other (please specify): ____________________________

25) How important was the professional liability climate in your decision?
   ☐ Very important
   ☐ Important
   ☐ Moderately important
   ☐ Of little importance
   ☐ Unimportant

26) Before the 2003 liability reforms, I worked in my practice approximately _____ hours per week. Approximately how many of those hours per week were worked in:
   a) Emergency room practice _____ hours per week
   b) Seeing high-risk patients or doing high-risk work _____ hours per week

27) In 2009, I worked in my practice approximately _____ hours per week. Approximately how many of those hours per week were worked in:
   a) Emergency room practice _____ hours per week
   b) Seeing high-risk patients or doing high-risk work _____ hours per week
28) In the years since the 2003 liability reforms, how important was the professional liability climate in your decisions about the following?

<table>
<thead>
<tr>
<th></th>
<th>Very Important</th>
<th>Important</th>
<th>Moderately Important</th>
<th>Of little importance</th>
<th>Unimportant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total hours worked in my medical practice</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Hours worked in emergency room practice</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Hours worked with high-risk patients or procedures</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

29) If liability reform had NOT been enacted in 2003, would your total medical practice work hours have changed in 2004?
- ☐ No, there would have been no difference without the reforms.
- ☐ Without the reforms, they would have decreased.
- ☐ Without the reforms they would have increased.

30) Since September 2003, have you:
- ☐ Found it easier to recruit new physicians to your practice, hospital, or community?
- ☐ Not tried to recruit new physicians to your practice, hospital, or community? (Skip to question 33)
- ☐ Found it more difficult to recruit new physicians to your practice, hospital, or community attributable to professional liability pressures?
- ☐ Found it more difficult to recruit new physicians to your practice, hospital, or community for reasons other than professional liability pressures?

31) How important was the professional liability climate in your ability to recruit new physicians?
- ☐ Very important
- ☐ Important
- ☐ Moderately important
- ☐ Of little importance
- ☐ Unimportant

32) If you attempted to recruit these specialists since 2003, were you successful?

<table>
<thead>
<tr>
<th>Specialties</th>
<th>Yes</th>
<th>No</th>
<th>Did not try to recruit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Emergency medicine specialists</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Obstetricians</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Neurosurgeons</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Orthopedic surgeons</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Trauma surgeons</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Pediatric subspecialists</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Other (please specify: ______________)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

33) Are you practicing in roughly the same geographic area of Texas where you practiced in 2003?
- ☐ Yes
- ☐ No (Skip to question 35)
34) Has your annual professional liability insurance premium (with discounts) changed in comparison with your 2003 premium?
☐ My premium increased.
☐ No, my premium remained the same.
☐ My premium decreased.
☐ Don’t know.

35) In the five years from 1999 through 2003, how many times did you receive notice of a professional liability claim? ____________

36) Of those claims received from 1999 through 2003, how many were closed, dismissed, or settled with no indemnity paid by you or your liability carrier? ____________

37) Of those claims received from 1999 through 2003, how many are still open? ____________

38) Other than the defense costs incurred by your insurer, approximately how much were your total personal legal fees for claims received from 1999 through 2003? ____________

39) In the five years from 2004 through 2008, how many times did you receive notice of a professional liability claim? ____________

40) Of those claims received from 2004 through 2008, how many were closed, dismissed, or settled with no indemnity paid by you or your liability carrier? ____________

41) Of those claims received from 2004 through 2008, how many are still open? ____________

42) Other than the defense costs incurred by your insurer, approximately how much were your total personal legal fees for claims received from 2004 through 2008? ____________

43) Are you likely to retire in the next three years?
☐ Very likely
☐ Moderately likely
☐ Unlikely

44) If the 2003 Texas medical malpractice liability reforms were repealed by the Texas legislature or nullified by federal law, would the probability that you would retire in the next three years change?
☐ No
☐ Yes, the probability that I would retire would increase.
☐ Yes, the probability that I would retire would decrease.

45) If the 2003 Texas medical malpractice liability reforms were repealed or nullified, would the hours that you work in your practice change?
☐ My practice hours would most likely increase.
☐ My practice hours would most likely decrease. (Skip to question 47)
☐ My practice hours would not change. (Skip to question 48)
46) Approximately how much would your hours increase? ______% (Skip to question 48)

47) Approximately how much would your hours decrease? ______%

48) What other actions, if any, would you take if the 2003 Texas medical malpractice liability reforms were repealed by the Texas legislature or nullified by federal law? (Check all that apply.)
   ☐ I would not take any actions or change my practice in any way.
   ☐ I would reduce or eliminate emergency room call.
   ☐ I would reduce or eliminate high-risk procedures.
   ☐ I would implement or expand limits on new Medicare patients.
   ☐ I would implement or expand limits on new Medicaid patients.
   ☐ Other (please specify): __________________________

49) How many physicians are in your practice (including yourself)? __________

50) Have you ever practiced clinical medicine as part of the U. S. military?
   ☐ Yes (Skip to question 52)
   ☐ No

51) Other than Texas, in how many states have you lived and practiced clinical medicine? ___

52) Please add any information not captured in this survey concerning your views and experiences of the effects of the 2003 medical liability reforms.

________________________________________________________________________________________
________________________________________________________________________________________

Thank you for your participation!