

TMA Medical Liability Survey Report — 2013

Background

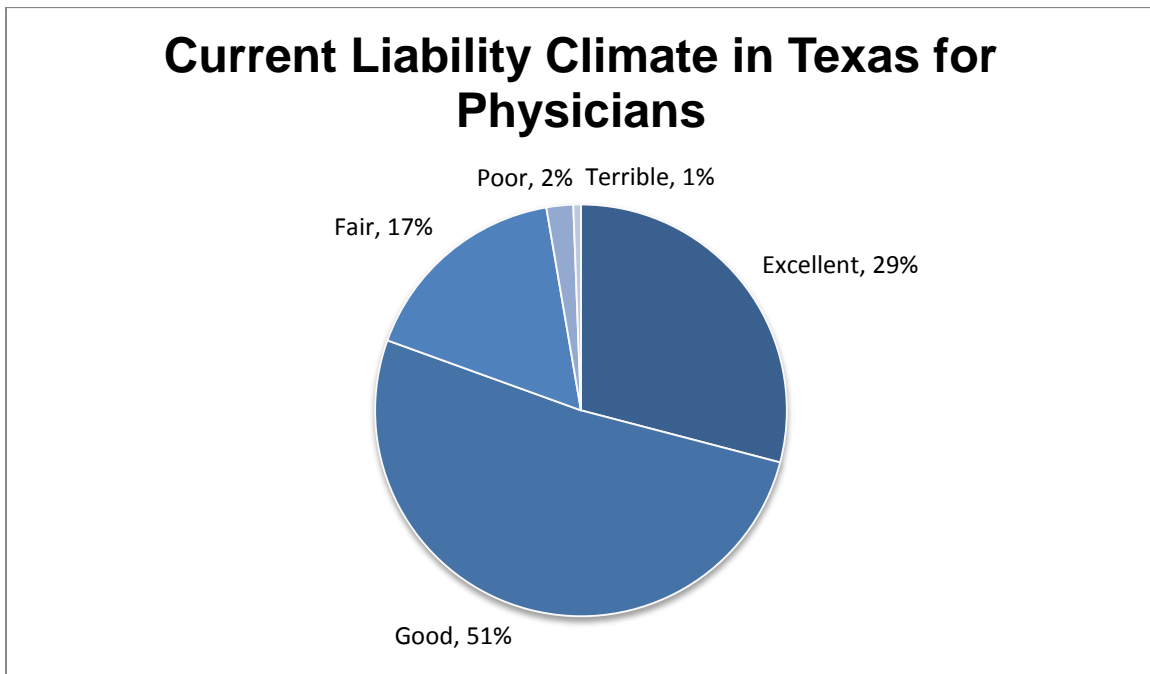
The passage of medical liability reforms in 2003 is one of the single most significant events in Texas health care for an entire generation of physicians. As we approach the 10th anniversary of those reforms, the Texas Medical Association continues to document their impact. The current survey is a benchmark of physicians' views on the changing liability climate, regardless of whether they were practicing medicine in Texas in 2003.

Methodology

This report contains a detailed statistical analysis of the results to the 2013 Medical Liability Survey. Invitations to participate in the web survey were emailed to 52,480 physicians in Texas and out of state. Analysis includes answers from 1,615 respondents who took the survey Aug. 6-20, 2013, a 3-percent response rate.

Findings

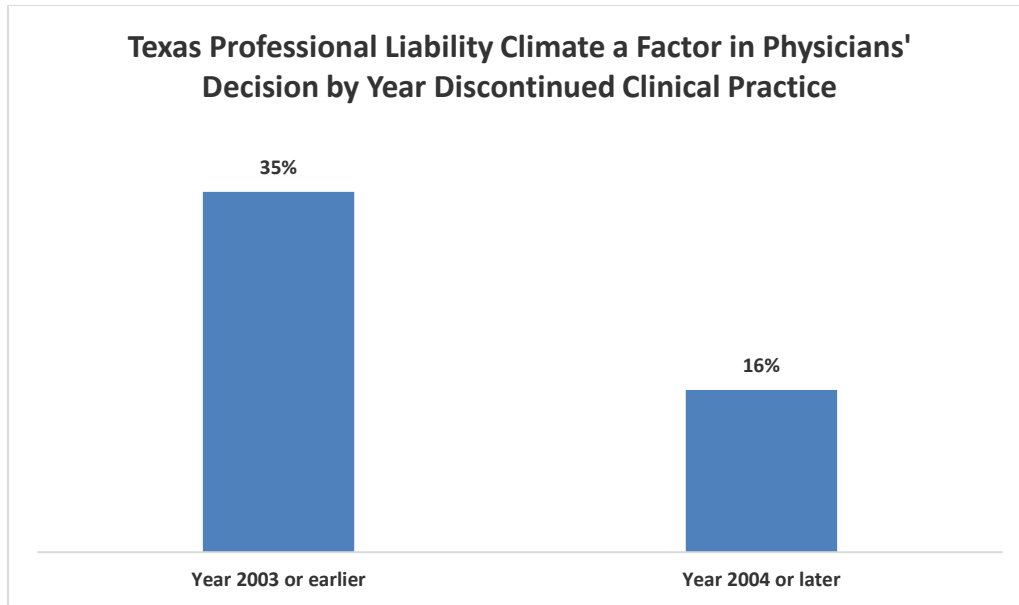
Respondents report the current liability climate in Texas for physicians is good or excellent (80 percent).



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

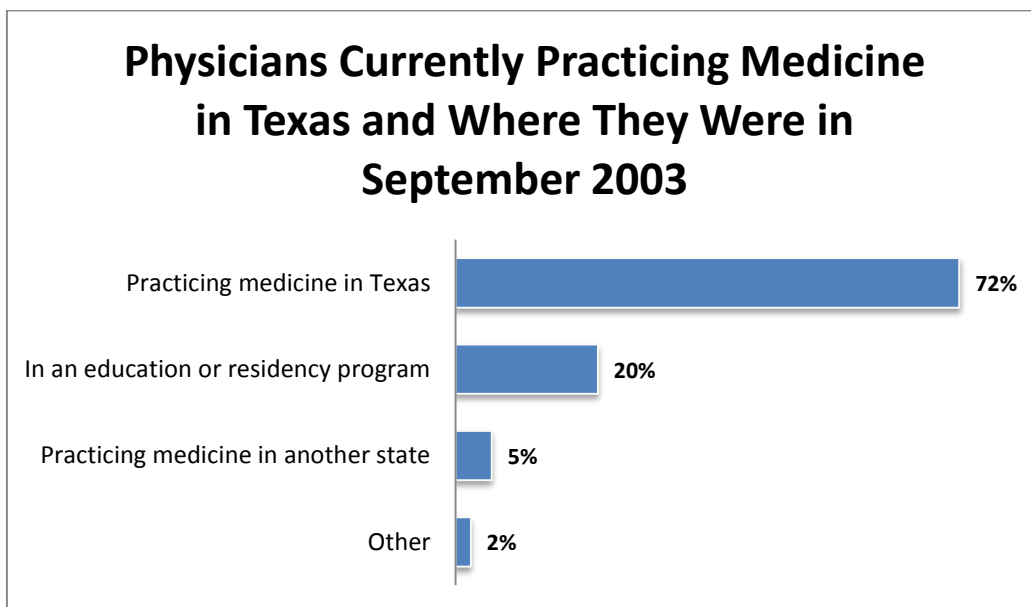
Seventeen percent of respondents do not currently provide direct patient care in Texas. Eighty percent of these physicians practiced medicine in Texas in the past, stopping, on average, in 2004. Physicians who are not currently practicing medicine in Texas in a clinical capacity, but did so at one time, are primarily retired or practicing in another state (69 percent).

Twenty-eight percent of these physicians report the professional liability climate was a factor in their decision to discontinue clinical practice in Texas. Older physicians are more likely to report it was a factor. **Physicians who stopped practicing medicine in Texas in 2003 or earlier are more likely to report the Texas professional liability climate was a factor (35 percent).**



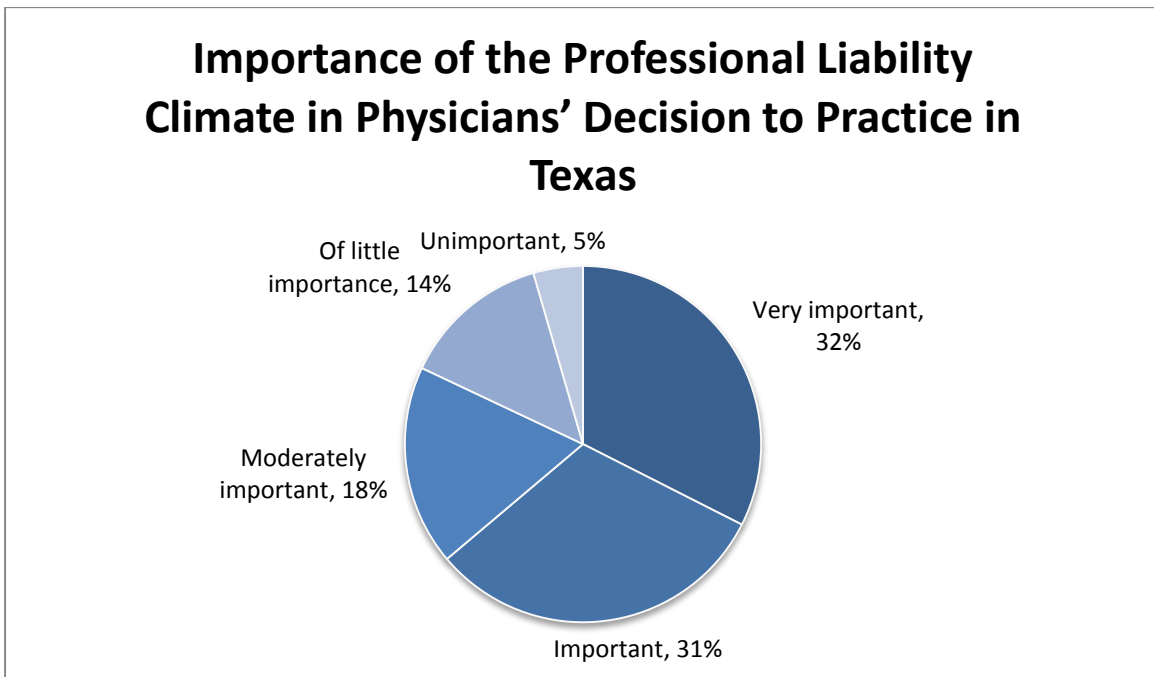
Physicians Who Were Practicing Medicine in Another State or in a Residency/Training Program in September 2003

Eighty-three percent of respondents currently provide direct patient care in Texas. Five percent were practicing medicine in another state in September 2003.



Physicians who were practicing medicine in another state report the current liability climate is better or much better than the state where they were (76 percent).

Physicians who were practicing medicine in another state or education/residency program in September 2003 began clinical practice in Texas, on average, between 2006 and 2008. **These physicians list the liability climate as one of the top three reasons they decided to practice in Texas (39 percent). Sixty-three percent report the professional liability climate was very important or important in their decision to practice in Texas.**



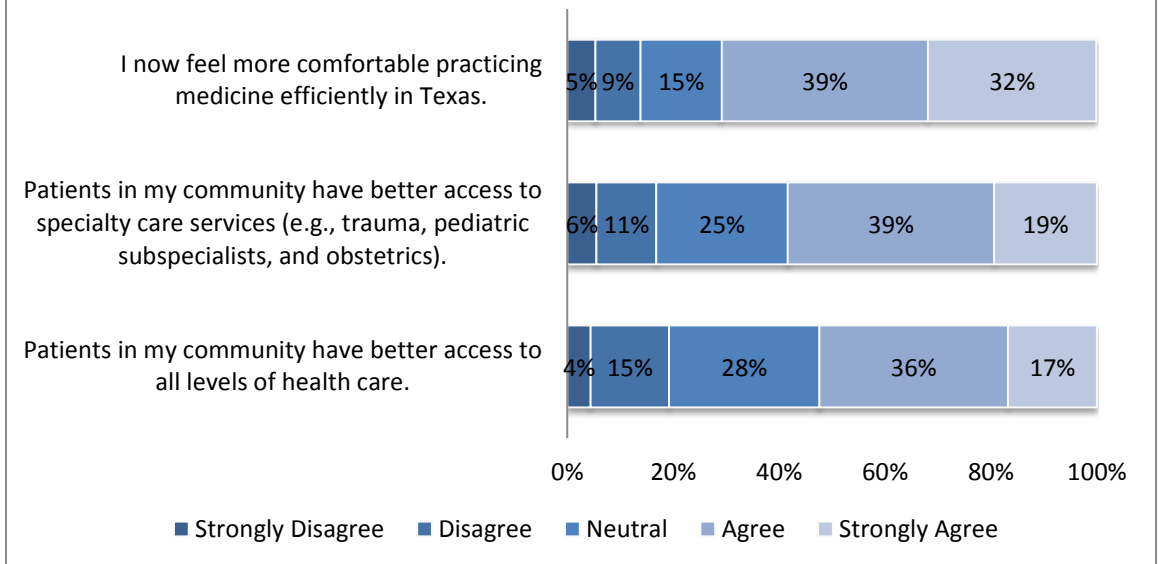
Seventy percent of these physicians either would not have or don't know if they would have chosen to practice in Texas had the state not reformed its health care liability laws.

Physicians Who Were Practicing Medicine in Texas in September 2003

Physicians who currently practice medicine in Texas in a clinical capacity and were practicing medicine in Texas in September 2003 report **the professional liability climate for physicians in Texas today is better or much better in comparison with the climate before September 2003 (89 percent)**. Older physicians are more likely to report the professional liability climate for physicians today is much better.

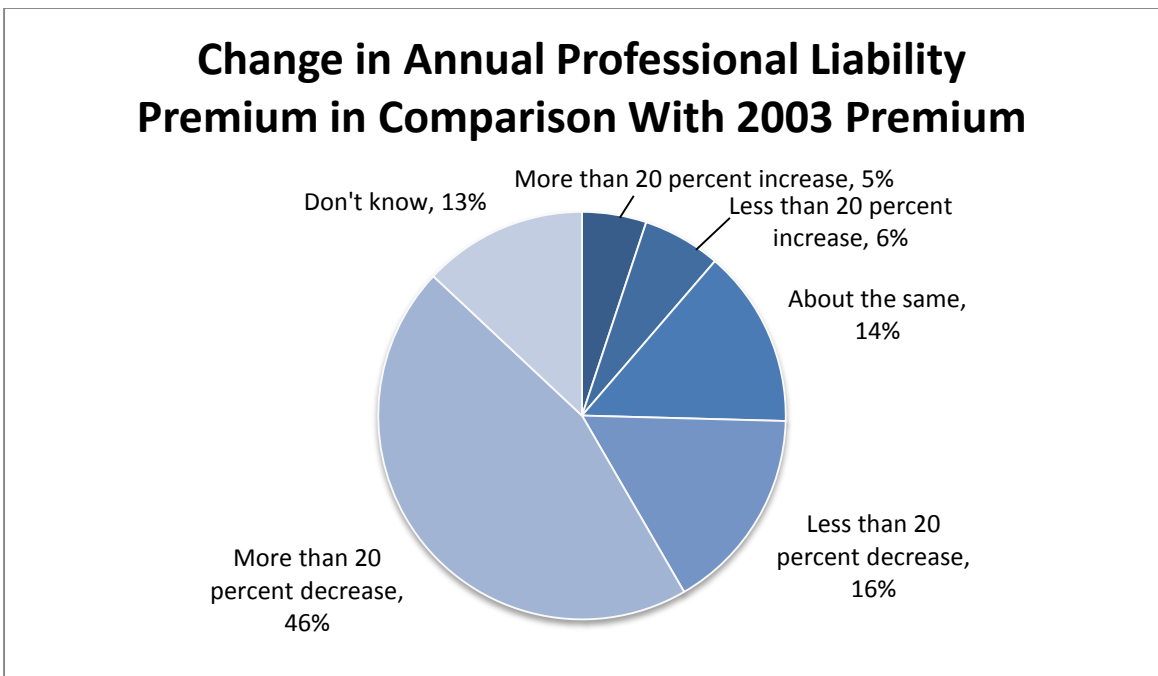
Compared with 2003, physicians strongly agree or agree they now feel more comfortable practicing medicine efficiently in Texas (71 percent), **patients in their community have better access to specialty care services (58 percent), and patients in their community have better access to all levels of health care (53 percent)**.

Access in Texas Today Compared With 2003



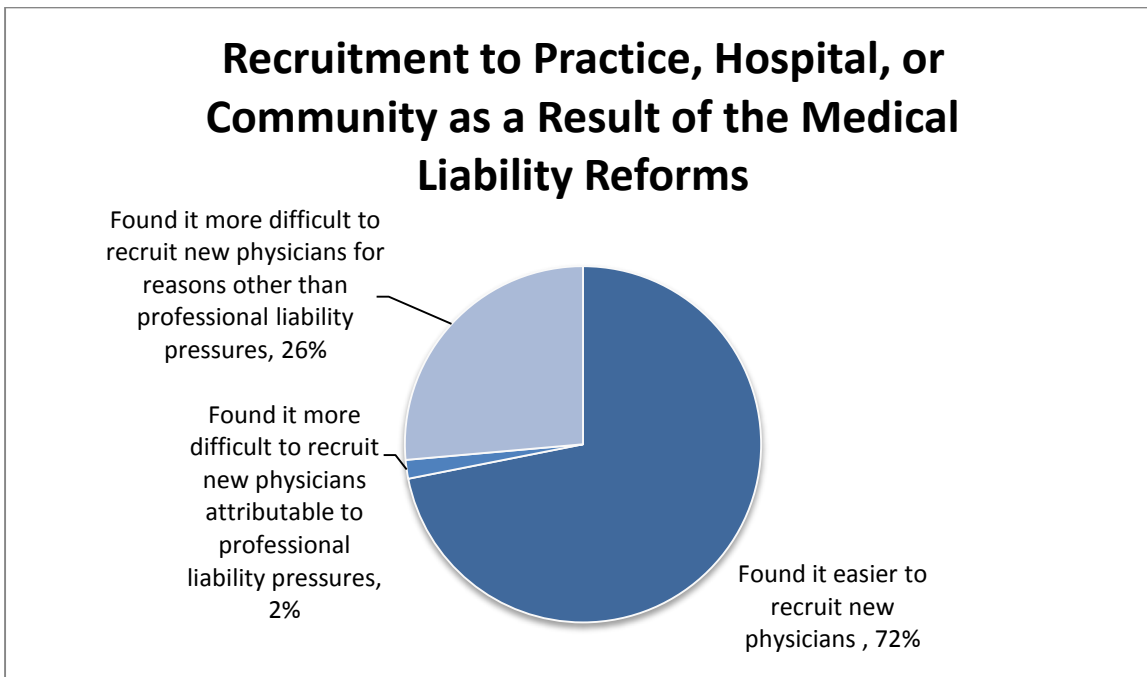
Physicians who have not changed coverage, specialty, or geographic location report their annual professional liability insurance premium (including any discounts) has decreased in comparison with their 2003 premium (62 percent).

Change in Annual Professional Liability Premium in Comparison With 2003 Premium



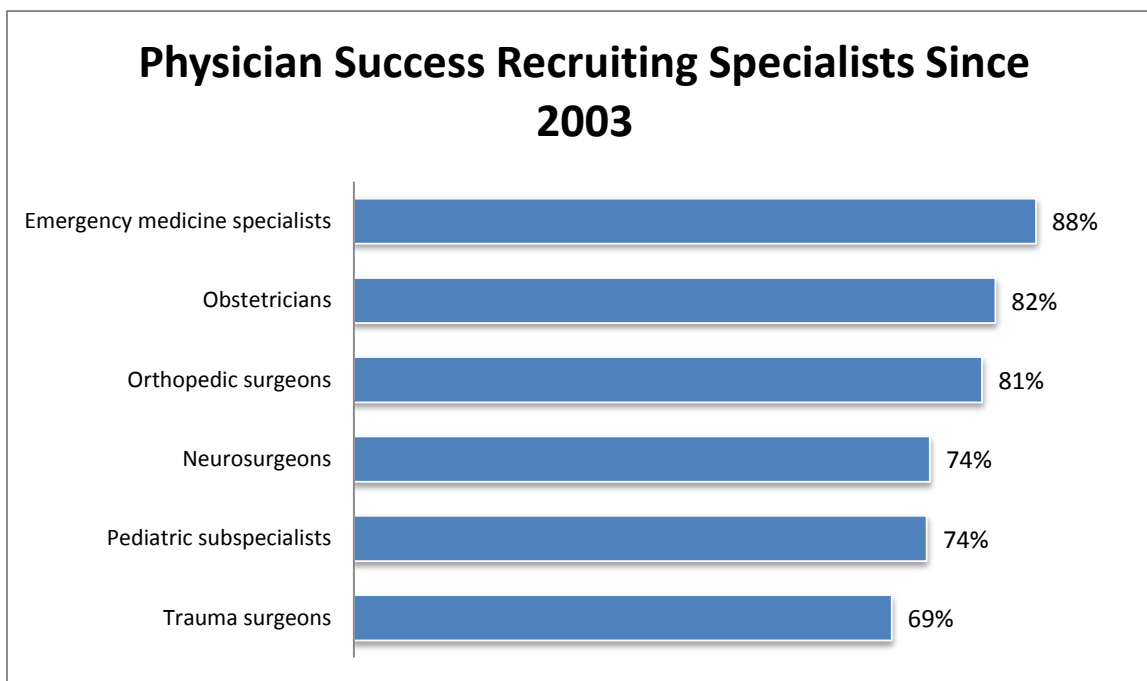
As a result of the 2003 medical liability reforms, 13 percent of these physicians are providing new or renewed services to their patients, and 36 percent are accepting more high-risk patients.

Physicians who have attempted to recruit new physicians to their practice, hospital, or community have found it easier (72 percent).

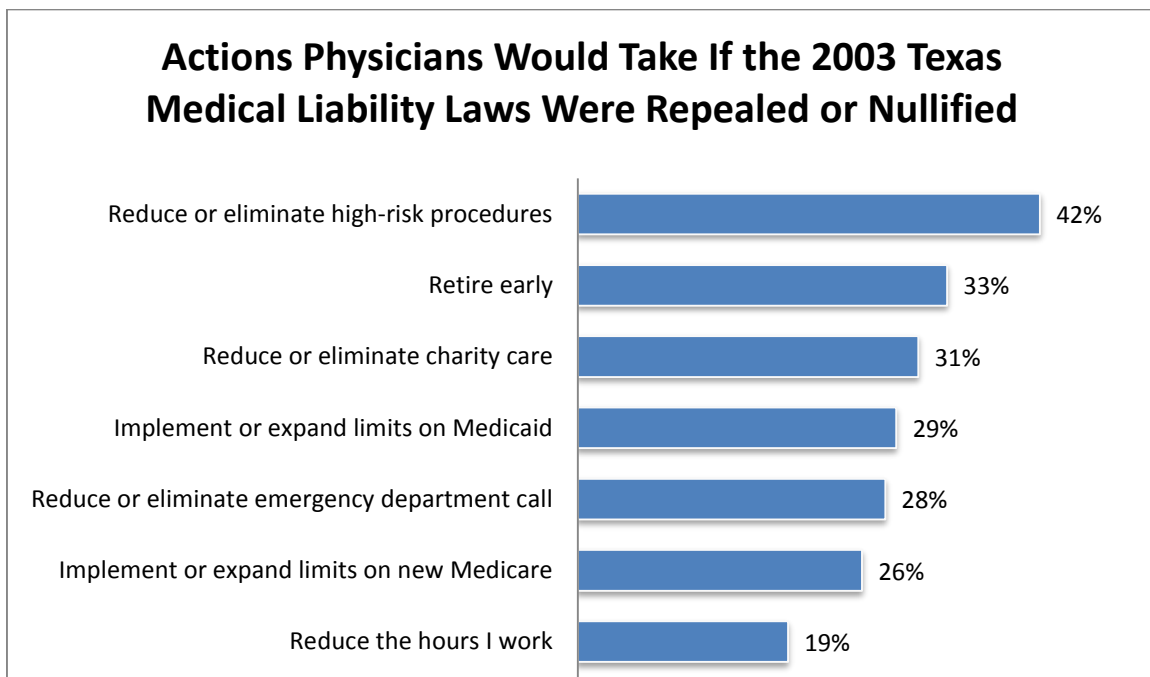


Physicians Who Currently Practice Medicine in Texas in a Clinical Capacity

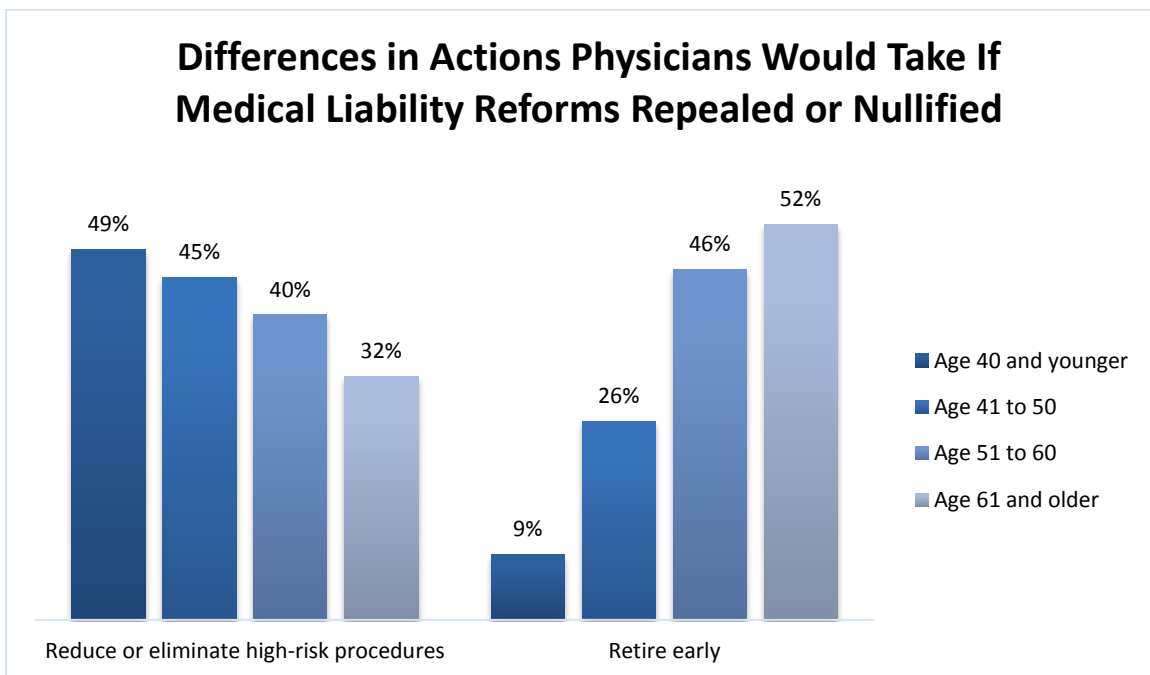
Physicians who currently provide direct patient care in Texas have been **overwhelmingly successful in their attempts to recruit certain “high-risk” specialists.**



If the 2003 Texas medical liability reforms were repealed by the Texas Legislature or nullified by federal law, **physicians are most likely to reduce or eliminate high-risk procedures (42 percent).**



Younger physicians are more likely to reduce or eliminate high-risk procedures. Older physicians are more likely to retire early.



Selected Comments

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

Improved Liability Climate

- As a physician living and practicing in North Carolina, I have been envious of my colleagues from Texas, who, thanks to a concerted group effort led by the Texas Medical Association, were able to enact meaningful tort and liability reform.

Delayed Retirement or Discontinuation of Clinical Practice

- I am part of a 25 member Ob-Gyn physician group. Probably half of us were in practice prior to 2003 and many of us had two or three lawsuits pending at all times. **It was a very dark time of our careers.**
- Knowing that following tort reform certain attorneys were no longer constantly trolling for cases to fund their retirement has made it easier to keep working and be able to take new and challenging patients.

Increased Number of Physicians

- I am in Texas because of malpractice reform. (From a former Illinois physician.)
- This has considerably improved access to specialties in rural Texas.
- I moved to Corpus Christi after tort reform. **Although I grew up in Corpus, I never would have considered practicing there if it hadn't been for tort reform.**
- Texas has physicians practicing in communities that were once bare.

Increased Quality of Care

- Doctors work best when they concentrate on how best to care for patients with the best possible outcome in mind, and not how their actions can best be defended in court.
- **I would not be in Texas if there was no reform.**
- I do greater risk heart surgeries.
- I am able to do indigent care only because of the tort reform.

Decreased Professional Liability Claims and Insurance Premiums

- **[We are] able to continue to deliver babies in rural East Texas.**
- After reforms were enacted, a trial lawyer in my church said that organized medicine was lying when it said tort reform had reduced costs for doctors. ... I showed the lawyer my refund check from TMLT & my statement for lower premiums that had come immediately after the reforms were enacted. The lawyer was impressed and publicly apologized.
- I moved from Massachusetts to Texas in 1990. My colleagues in Boston are amazed that my malpractice premiums are about 30 percent less than theirs and that my premiums have decreased over the years.

Decreased Defensive Medicine

- **Benefits of tort reform include less needless referrals, testing, and over treatment.**

- As a young physician, I appreciated Proposition 12 because it alleviated the burden of fear to practice medicine appropriately.

Survey Demographics

Respondents were physician members (77 percent) and nonmembers (23 percent).

Respondents were 40 years and younger (17 percent), 41 to 50 (20 percent), 51 to 60 (28 percent), and 60 and over (35 percent).

They were male (73 percent), female (27 percent).

Physicians' specialties included indirect access (13 percent), primary care (24 percent), pediatrics (9 percent), surgical specialties (11 percent), emergency medicine (4 percent), obstetrics and gynecology (7 percent), orthopedic surgery (4 percent), and nonsurgical specialties (30 percent).

Respondents live and practice in Texas (93 percent) and out of state (7 percent).

TMA Medical Liability Survey 2013

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 7.)
- No

3. Have you ever practiced medicine in Texas in a clinical capacity?

- Yes
- No (Skip to question 21.)

4. In what year did you stop practicing medicine in Texas? _____

5. 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): _____

6. Was the Texas professional liability climate a factor in your decision to discontinue clinical practice in Texas?

- Yes
- No (Skip to question 21.)

7. In September 2003, were you:

- Practicing medicine in Texas (Skip to question 13.)
- In an education or residency program (Skip to question 9.)
- Practicing medicine in another state (please specify the state): _____
- Other (please specify): _____

8. 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

9. In what year did you begin clinical practice in Texas? _____

10. List briefly the top three reasons you decided to practice in Texas.

11. How important was the Texas professional liability climate in your decision to practice in Texas?

- Very important
- Important
- Moderately important
- Of little importance
- Unimportant

12. Would you have chosen to practice in Texas if the state had not reformed its health care liability laws?

- Yes (Skip to question 19.)
- No (Skip to question 19.)
- I don't know (Skip to question 19.)

13. 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

14. Using the scale below, please rate how strongly you agree or disagree with these statements:

	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree
Compared with 2003, I now feel more comfortable practicing medicine efficiently in Texas.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Compared with 2003, patients in my community have better access to all levels of health care.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Compared with 2003, patients in my community have better access to specialty care services (e.g., trauma, pediatric subspecialists, and obstetrics).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

15. How has your annual professional liability insurance premium (including any discounts) changed in comparison with your 2003 premium?

- More than 20 percent increase in premiums
- Less than 20 percent increase in premiums
- My premium is about the same.
- Less than 20 percent decrease in premiums
- More than 20 percent decrease in premiums
- Not applicable because my coverage, specialty, or geographic location has changed
- Don't know

16. As a result of the 2003 medical liability reforms, are you providing new or renewed services to your patients?

- Yes (please specify): _____
- No

17. As a result of the 2003 medical liability reforms, are you accepting more high-risk patients?

- Yes
- No

18. As a result of the medical liability reforms, 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 20.)
- 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?

19. If you attempted to recruit these specialists since 2003, were you successful?

	Yes	No	Did not try to recruit
Emergency medicine specialists	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Obstetricians	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Neurosurgeons	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Orthopedic surgeons	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trauma surgeons	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pediatric subspecialists	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

20. What actions, if any, would you take if the 2003 Texas medical 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 retire early.
- I would reduce the hours that I work
- I would reduce or eliminate emergency department 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.
- I would reduce or eliminate charity care that I currently provide.
- Other (Please specify.): _____

21. In your medical career, approximately how many times have you received notice of a malpractice claim?

Number: _____

22. Of those claims,

How many were closed, dismissed, or settled with no indemnity paid? _____

How many are still open? _____

How many are closed with some indemnity paid? _____

23. Can you provide a compelling story or anecdote that illustrates improved access to care for Texans as a direct result of Proposition 12 and the 2003 medical liability reforms in Texas? Could you share a story detailing how you or a colleague was able to render life-saving or life-changing medical care because of the passage of the 2003 reform?

24. May we contact you for more details on your answers?

- Yes
- No

25. Would you be willing to share your story with the news media and/or members of the Texas Legislature?

- Yes
- No

26. Your contact information:

Name

Email

Phone number