



Limiting Liability Will Not Fix Insurance Problems

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Over the past year and a half, the following states have tried to solve their state's insurance problems by limiting injured consumers' right to sue in court (so-called "tort reform"). It has failed every time. The reason is: the causes and solutions to insurance problems lie with the insurance industry, not the legal system.

Texas: During the 2003 campaign for a "tort reform" referendum, ads promised rate cuts if caps were passed. After the referendum passed, major insurers requested rate hikes as high as 35 percent for doctors and 65 percent for hospitals.¹ Lawmakers who supported the cap are now expressing anger that premiums have not gone down.² In April 2004, after one insurer's rate hike request was denied, it announced it was using a legal loophole to avoid state regulation and increase premiums 10 percent without approval.³

Florida: "When Gov. Jeb Bush and House Speaker Johnnie Byrd pushed through a sweeping medical malpractice overhaul bill last August, the two Republican leaders vowed in a joint statement that the bill would 'reduce ever-increasing insurance premiums for Florida's physicians . . . and increase physicians' access to affordable insurance coverage.'" But, insurers soon followed up with requests to increase premiums by as much as 45%.⁴

Oklahoma: After "tort reform" passed in 2003, the third-largest medical malpractice insurer in the state raised its premiums 20 percent, followed by an outrageous 105 percent rate hike in 2004.⁵ The largest insurance company, which is owned by the state medical association, requested an astounding 83 percent rate hike just after "tort reform" passed (which was approved on the condition it be phased in over three years).⁶

Ohio: Almost immediately after "tort reform" passed, all five major medical malpractice insurance companies in Ohio announced they would not reduce their rates. One insurance executive predicted his company would seek a 20 percent rate increase.⁷ A year later: "Executives from Ohio's top medical insurance companies said they don't expect to see malpractice premiums stabilize for several more years."⁸

Mississippi: Four months after "tort reform" passed, investigative news articles reported that surgeons still could not find affordable insurance and that many Mississippi doctors were still limiting their practice or walking off the job in protest.⁹

Nevada: Within weeks of enactment of "tort reform" in the summer of 2002, two major insurance companies proclaimed that they would not reduce insurance rates for at least another year to two, if ever. The Doctor's Company, a nationwide medical malpractice insurer, then filed for a 16.9 percent rate increase. Two other companies filed for 25 percent and 93 percent rate increases.¹⁰ Doctors are complaining that the cap has not stopped rapidly rising premiums.¹¹

NOTES:

¹ E.g. Darrin Schlegel, "Some Malpractice Rates to Rise Despite Prop. 12," *Houston Chronicle*, Nov. 19, 2003; Darrin Schlegel, "Malpractice Insurer Fails in Bid for Rate Hike," *Houston Chronicle*, Nov. 21, 2003.

² Jim Vertuno, "House Members Upset More Doctors Not Getting Relief," *Assoc. Press*, April 22, 2004.

³ "Insurer Switching to Unregulated Product to Raise Premiums," *Assoc. Press*, April 10, 2004.

⁴ E.g. Julie Kay, "Medical Malpractice; Despite Legislation that Promised to Rein in Physicians' Insurance Premiums, Three Firms File for Big Rate Increases," *Palm Beach Daily Business Review*, Nov. 20, 2003.

⁵ "Hike Approved for Premiums," *Daily Oklahoman*, April 8, 2004.

⁶ E.g. "Oklahoma's Largest Medical-Liability Company Gets 83% Rate Increase Over Three Years," *BestWire*, Dec. 2, 2003.

⁷ E.g. "Despite New Law, Insurance Companies Won't Lower Rates Right Away," *Associated Press*, Jan. 9, 2003.

⁸ "Probe Targets Doctor Costs," *Marion Star*, April 20, 2004.

⁹ E.g. "Miss. Tort Reform Effort Falls Short," *Commercial Appeal*, Feb. 18, 2003; Reed Branson, "Doctors In Oxford Shut, Cite Insurance," *Commercial Appeal*, Feb. 14, 2003; Ben Bryant, "Tort Reform Has Done Little to Ease Malpractice Crisis," *Biloxi Sun-Herald*, Feb. 2, 2003.

¹⁰ E.g. Joelle Babula, "Medical Liability Company Requests Premium Increase," *Las Vegas Review-Journal*, Feb. 11, 2003; Babula, "State Insurance Program Holds Off on Lowering Rates," *Las Vegas Review-Journal*, Aug. 14, 2002.

¹¹ Steve Kanigher, "18 Months after Law Enacted, Doctors Say it Hasn't Worked," *Las Vegas Sun*, Feb. 27, 2004.