WISCONSIN STATE LEGISLATURE COMMITTEE HEARING RECORDS

2005-06

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Insurance (AC-In)

(Form Updated: 11/20/2008)

COMMITTEE NOTICES ...

➢ Committee Reports ... CR
**

➢ Executive Sessions ... ES
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➢ Public Hearings ... PH
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INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL ...

➢ Appointments ... Appt
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(misc. 2005 documents)

OPINION

Wisconsin State Journal

B3 • Sunday, February 20, 2005 Editorial Writers: Chuck Martin, Sunny Schubert, (608) 252-6107

Let Fox River case remain on course

Lawmakers should reject a plan to change insurance law to favor paper companies in a dispute over the Fox River cleanup.

The state Legislature ought to stay out of the legal dispute over who should pay how much to clean up the Fox River.

That means lawmakers should reject a bill introduced last month to change state law to favor paper companies in their courtroom battles with insurers over the costs of what could be more than a $500 million project on the Fox River in east-central Wisconsin.

The bill would not only insert the legislative branch of government in a matter belonging before the judiciary but also risk higher insurance rates for businesses, which would be passed on to consumers in higher costs for products and services.

At issue is who pays for getting toxic chemicals out of the river's sediment. The river became a paper industry dumping site for chemicals called PCBs in the 1950s, before policy makers were aware of the risk to the environment.

By the 1970s Wisconsin regulators traced PCB contamination of the river to the paper companies. By 2003 negotiations between paper companies and state and federal regulators produced a plan for cleaning up the river — a plan that involves dredging and will require at least a decade to complete.

To pay the costs the paper companies have turned to their insurers. But because the long history of dumping spans a long list of insurance policies in effect at various paper companies at various times, determining which insurers are liable for what has landed both sides in court.

The best way to settle the matter is to allow the courts to sort through the legal questions and decide who is responsible for paying. That's the method provided by current law.

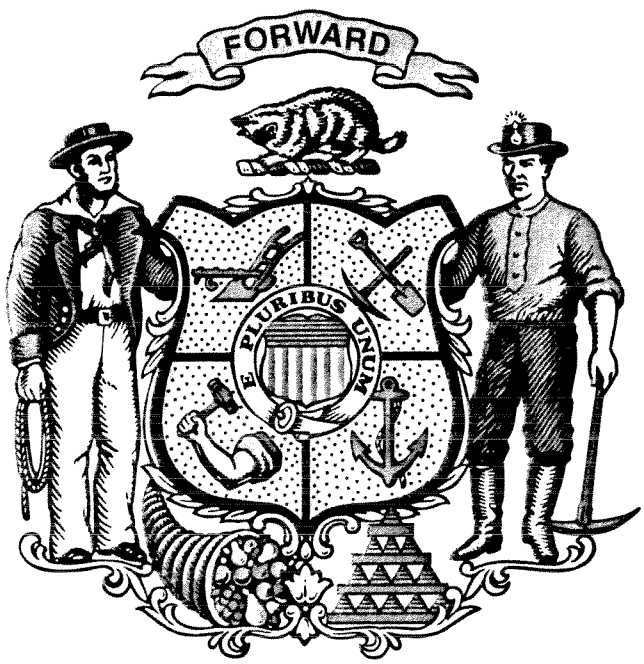
But two legislators, Rep. Dean Kaufert, R-Neenah, and Sen. Robert Cowles, R-Green Bay, have proposed to make Wisconsin the second state in the nation to adopt an "all sums" insurance provision. The provision would allow a paper company simply to pick one insurer, which would then have to pay the entire sum of the claim.

It's difficult to work up much sympathy for insurance companies, but you don't have to side with the insurers to recognize that consumers, too, could be harmed by the proposed change.

The proposal would essentially rewrite insurance contracts to make a single company liable for all damages. That company would then have to sue other insurers to share the cost. By exposing a single insurance company to risks not contemplated at the time of the contract, the proposal raises the risks for insurers. Insurers could be expected to raise their premiums accordingly.

The bill's supporters argue that the change is needed to break a deadlock over liability and get the Fox River cleaned up quicker. But if the legislation is implemented, it is likely to be tied up in lawsuits that could delay the cleanup even further.

Wisconsin has no business trying to rig the outcome of a case that is really a matter for the judicial system, not the Legislature. Reject "all sums" legislation.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HEALTH CARE EXPENSES are a Key

WHEN IT COMES TO HEALTH CARE COVERAGE, WHICH STATES OFFER THE LOWEST COSTS, ADEQUATE COVERAGE AND LEAST RISK TO EMPLOYERS?

HEALTH CARE COSTS ARE KEEPING business executives awake at night. According to a recent survey by accountant recruiter Robert Half Management Resources, the biggest concern for corporate executives during the next four years will be health care costs and health care in general.

A whopping 89 percent of the 1,400 chief financial officers surveyed ranked health care, including escalating costs for employee medical plans, as their biggest concern, easily topping energy costs, the federal budget deficit, government spending and other issues.

"Health care costs have a huge influence on a business that is expanding or relocating, and they have an impact on attracting and retaining good employees," said Ann Brown, chair of the National Association of Manufacturers' (NAM) Employee Benefits Committee, and co-owner of New Vista Image, a digital printer in Golden, Colo.

Even a blue-chip consumer brand like Starbucks is concerned about health care expenses.

Asked what the biggest challenge is to meeting his company's growth objectives, Howard Schultz, chairman of Seattle-based Starbucks Corp., said without a doubt it's health care costs.

"We just had to raise our prices for the first time in four years," he said. "That is primarily because of the rising cost of health insurance and also dairy prices. During the next two years, we will spend more for employee health care costs than we will for coffee. That's quite a statement."

Comments like these were reason enough for *Expansion Management* to examine health care costs, availability and quality in order to determine whether they varied enough from state to state to qualify as an important site location factor.

The data we uncovered proves that the answer is a resounding yes.

What we've come up with is our 2005 *Health Care Cost Quotient*™, the latest in our long line of "Quotient" studies, which include the *Education Quotient*™, *Logistics Quotient*™, *Quality of Life Quotient*™, *Legislative Quotient*™ and *High Value Labor Quotient*™. This is the third year we've produced the *Health Care Cost Quotient*.

This year's top-ranked state in the *Health Quotient* is Kansas, followed by Tennessee, Louisiana, North Dakota and South Dakota. Among the top 20 finishers, the Midwest took top honors

Rankings are on page 26
Story continues on page 28

"OVER THE NEXT TWO YEARS, WE WILL SPEND MORE FOR
OUR U.S. EMPLOYEE HEALTH CARE COVERAGE THAN WE WILL FOR COFFEE.
THAT'S QUITE A STATEMENT."

Howard Schultz, Chairman, Starbucks Corp.

with nine states. Seven southern states finished in the top 20, while eastern and western regions each had two states. *(For the rankings of all 50 states, see page 26.)*

Businesses can expect a little relief this year on their worker health care expenses, predicted Joe Marlowe, senior vice president for Aon Consulting of Conshohocken, Pa.

"We are seeing some moderation in costs, pretty much across the U.S.," Marlowe said. "In 2005, employers can expect to see their health care costs increase in the range of 8 percent to 12 percent, which would be a reduction from the 2004 experience, when costs were growing at an average around 15 percent."

Eric Parmenter, senior manager and practice leader for compensation and benefit consulting for Grant Thornton LLP in Chicago, echoed those sentiments.

"Employer-sponsored health benefit costs will rise at an 8 percent national rate in 2005," Parmenter said. "Although the trend is slowing somewhat compared with the double-digit increases of the past few years, many employers will take little comfort in an 8 percent increase."

Parmenter's estimate matches up with projections in the 2005 Towers Perrin Health Care Cost Survey, which predicts an 8 percent increase in health care costs for employers in 2005.

"[This year] represents the first significant break in the double-digit cost spiral in [more than] a half-decade," according to the report. "But before employers and employees rejoice, closer analysis reveals that, dollar for dollar, the cost increase in 2005, at an average of $582 per employee, is still unsustainable for most employers."

THE MAJOR CATEGORIES

The Health Care Cost Quotient is based on data grouped into five major categories: health care facilities, health care providers, health insurance costs, health care provider visit costs and malpractice costs.

Cost-related factors were given the greatest weight, given the fact that the study looks at health care costs from the employer's perspective.

Out-of-pocket costs for worker health insurance may be the most important measure for employers in the equation. Therefore, we went to the Agency for Healthcare Research and Quality (AHRQ), an agency of the U.S. Department of Health and Human Services, and used its Medical Expenditure Panel Survey as a guide to employer health insurance costs. We used statistics from AHRQ's Employer-Sponsored Health Insurance Data as our chief source.

States were ranked on both the average amount employers paid for single premium coverage per enrolled worker and the average total employee contribution for single health coverage. The AHRQ data was released in July.

To get a feel for the typical cost of a visit to a health care provider, we relied on health care cost data for the states from the ACCRA Cost of Living Index (third quarter, 2004).

We ranked states based on the ACCRA's average cost data for patient visits to each of the following: doctor, dentist and optometrist. (ACCRA was formerly the American Chamber of Commerce Researchers Association.)

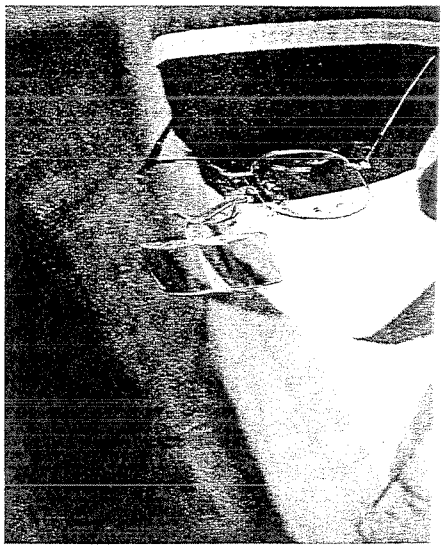
One organization that is working to minimize health care cost hikes is the National Business Coalition on Health (NBCH). This group has about 80 employer-based health care coalitions as members. NBCH and its member-coalitions advocate value-based purchasing of health care services by public and private employers.

The *Health Care Cost Quotient* included state-by-state counts of NBCH coalitions in its calculations, since these groups play a critical role in controlling the health care cost spiral.

"Businesses bear the brunt of health care costs, and in many cases, they just don't have the leverage or in-house expertise to help make the necessary changes in the health care system," said Donna Marshall, executive director of the Colorado Business Group on Health, a member of NBCH.

The 19 member-employers of the Colorado Business Group offer health insurance coverage and other benefits to 225,000 workers and dependents.

With skyrocketing medical malpractice premiums in the news on an almost-daily basis, we added two key malpractice measures in our state rankings: average medical malpractice premiums paid per doctor and



"EMPLOYEE-SPONSORED HEALTH BENEFIT COSTS WILL RISE AT AN 8 PERCENT NATIONAL RATE IN 2005. ALTHOUGH THE TREND IS SLOWING SOMEWHAT COMPARED WITH THE DOUBLE-DIGIT INCREASES OF THE PAST FEW YEARS, MANY EMPLOYERS WILL TAKE LITTLE COMFORT IN AN 8 PERCENT INCREASE."

Eric Parmenter, Grant Thornton LLP

sic data as the number of hospital beds per 100,000 population, we also considered the number of top-notch health care facilities from *U.S. News & World Reports'* Best Hospitals list and Solucient's Top 100 Hospitals list.

Tennessee, which ranked No. 2 in the *Health Care Cost Quotient*, has a wealth of well-regarded health care facilities and health resources.

"We have been health care innovators with leading organizations such as HCA and Vanderbilt providing strong business, research and management resources to our state," said Matthew Kisber, commissioner of the Tennessee Department of Economic and Community Development. "We have a governor [Phil Bredesen] who has a strong entrepreneurial background in the health care industry and fully understands its importance in business development and retention efforts."

We also included state rankings from Morgan Quitno's 12th annual "Healthiest State Award" to round out the *Health Quotient* calculations.

A BUSINESS PERSPECTIVE

One manufacturing executive who wasn't surprised by Iowa's strong showing (No. 8) in the *Health Care Cost Quotient* is Ken Kneen, CEO of Al-jon Inc. of Ottumwa, Iowa. Al-jon, which employs 110 workers, builds heavy equipment used for scrap and solid waste processing.

"We've got a lot going for us, including a low percentage of children living in poverty, a low rate of uninsured families, and there's high access to prenatal care," said Kneen, who also serves on the NAM board of directors.

Kneen urged executives to make sure their workers buy into the company's health care plan.

If Al-jon employees participate fully in the company's wellness program, and they are considered well by the program, the company will pay nearly 98 percent of employees' insurance premiums.

For employees that don't participate, Al-jon has frozen its payout to 100 percent of January 1997 dollars, and employees are required to make up the difference.

"There's quite an incentive for [employees] to participate," Kneen said. "I think efforts like these will do more to keep our health care costs down than any government program."

Some businesses view a robust health benefit plan for their workers as an important recruiting tool.

"Establishing comprehensive, affordable health care as a key employment benefit for our full- and part-time retail hourly work force is one of Starbucks proudest accomplishments," Schultz said. "By providing a health benefit, Starbucks is able to reduce turnover, attract higher-quality applicants and ultimately foster a more fulfilled, productive partner."

The timing for the *Health Care Cost Quotient* couldn't be better.

"We find that many employers are starting to realize that health care and worker health benefits are really a core business issue and not just an HR issue," said Bern Shen, a physician who is director of the health program at the Institute for the Future, a Palo Alto, Calif.,-based forecasting think tank.

Shen sees even greater challenges down the road.

"Obviously, we are faced with the boomer bulge hitting the health care system at the very same time that nurses, in particular, will be aging out of the work force," he said. "We are also seeing a fraying of the safety net with both Medicare and Social Security looking more insolvent as time goes on."

With costs expected to continue to rise well above the rate of inflation, health care costs are becoming an increasingly important factor for business executives looking for the best location for their next manufacturing or service sector facility.

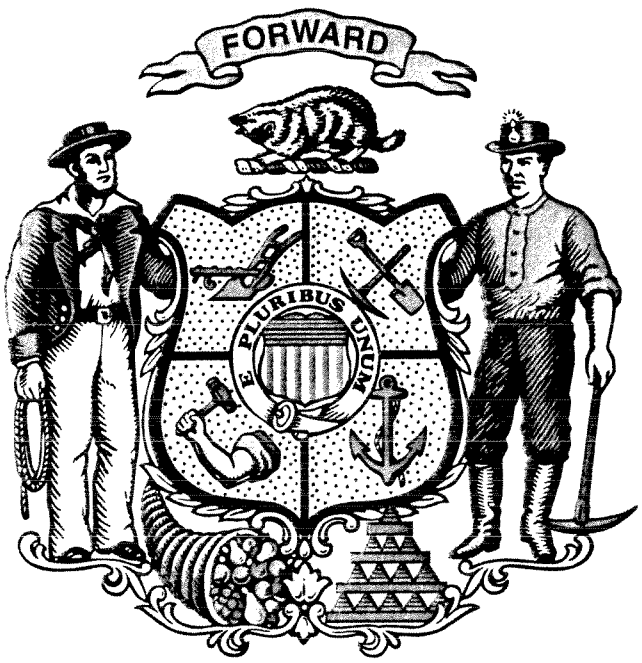
States that do nothing to bring the cost of health care under control will soon find that, like high taxes and a Byzantine regulatory environment, unwieldy health care costs will soon be driving businesses to neighboring states.

Michael Keating is senior research editor for Expansion Management. He can be reached at mkeating@penton.com.

FOR MORE INFORMATION

Louisiana Dept. of ED
www.eminfo.org/88.ad

City of Harrisonburg Dept. of ED
www.eminfo.org/838.ad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WAPN
WISCONSIN ASSOCIATION
OF PROVIDER NETWORKS

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Chapter 609 & Ins 9
DEFINED NETWORK PLANS

Position Statement – March, 2005

In the 2001-2002 budget bill, some very important changes were made to Wisconsin State Statute Chapter 609. The law had previously defined PPO's as Managed Care, which not only was inaccurate, but also consequently made it impossible for PPO plans to comply with the law.

The changes to the statute reflected the differences that exist between HMO plans and PPO plans and applied more appropriate regulations to both. These changes included:

- **Clarification in the definition of PPO plans**
  A PPO plan provides complete freedom of choice in choosing health care providers and provides coverage, without a referral, whether you see a network provider or not. These clarifications were included in the expanded statutory definition of PPO's.

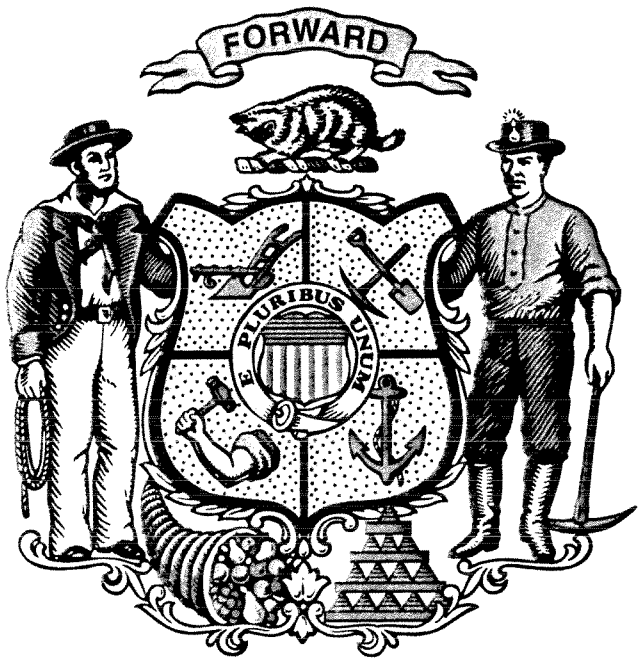
- **Access Standards, Choice of Providers & Referrals**
  With PPO plans offering coverage in or out of the network, it was important that the Access Standards that needed to be implemented for HMO plans were not inappropriately applied to PPO plans, as access to a provider for a PPO enrollee is unlimited.

- **Application of Quality Assurance**
  Unlike an HMO, the contractual relationship between a PPO and their providers do not allow for management of care provisions. With PPO's, such decisions are left to the provider and the patient. The changes made to this section recognize management of care does not occur with PPO plans.

While the legislature recognized the differences that exist between HMO's & PPO's, the regulation (which is known as Ins 9) continues to ignore these differences, and refuses thus far, to comply with the intent of changes the legislature made to Chapter 609.

Mgmt of care issues: HMO contract
Discounts: PPO contract (ie indemnity insurance)

<u>As the Office of the Commissioner of Insurance finalizes changes to Ins 9, it is imperative the legislature assure that these changes are consistent with the legislative intent of Chapter 609.</u>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JOINT ECONOMIC COMMITTEE

JIM SAXTON, CHAIRMAN

RESEARCH REPORT #109-2
March 2005

The Perverse Nature of the Medical Liability System

It is commonly assumed that the medical liability system works as advertised: injured patients sue negligent doctors for compensation for their injuries. This assumption is the basis for arguments defending the current system. However, medical liability in practice differs greatly from theory because the system is ineffective at deterring negligent injuries and fails to justly compensate those truly harmed by negligent injuries, thereby providing compelling grounds for serious medical liability reform.

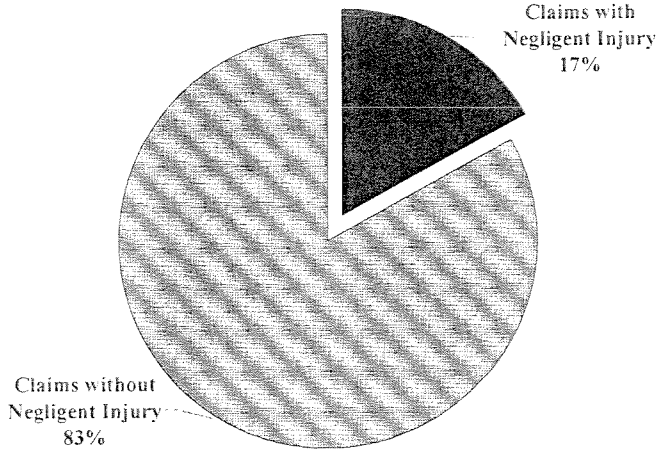
HITTING THE WRONG TARGET

Unfortunately, the medical liability system malfunctions on a fundamental level. Analyses of hospitalizations and medical liability claims reveal that close to 80 percent of medical liability claims are not associated with an injury caused by negligence. One study estimated that just 17 percent of medical liability claims involved a negligent injury. Another study put the figure at 15 percent. In other words, only about one in five medical liability claims actually involve negligence. In fact, more than half of all medical liability claims do not involve an injury at all.

At the same time, the vast majority of negligent medical injuries never materialize as liability claims. According to different studies, only about 3 percent of victims of medical malpractice actually file liability claims. The obvious implication from this fact is that the liability system fails to punish the vast majority of negligent medical injuries. While many of the negligent injuries that do not result in a claim are relatively minor, a significant number of non-litigated negligent injuries involve major disability.

The system is not completely dysfunctional, in the sense that negligent doctors are probably more likely to get sued than are non-negligent doctors. Yet the fact remains that the large majority of doctors who are sued for medical liability are not guilty of negligent care. One way to

Figure 1. Negligent Injuries in Medical Liability Claims



Source: Harvard Medical Practice Study.

summarize the effects of the current system is to say that some bad doctors get sued, but not everyone who is sued is a bad doctor.

Thus, the medical liability system largely penalizes doctors who have done nothing wrong, while at the same time fails to provide compensation to the vast majority of legitimate victims. Put another way, the bulk of the medical liability system is preoccupied with penalizing non-negligent doctors on behalf of claimants who lack a sound legal basis for their claims. As one critic has observed, "it is similar to a situation in which a traffic officer is giving tickets to large numbers of motorists who are not speeding, but failing to give tickets to many speeding motorists."

THE COST OF BEING SUED

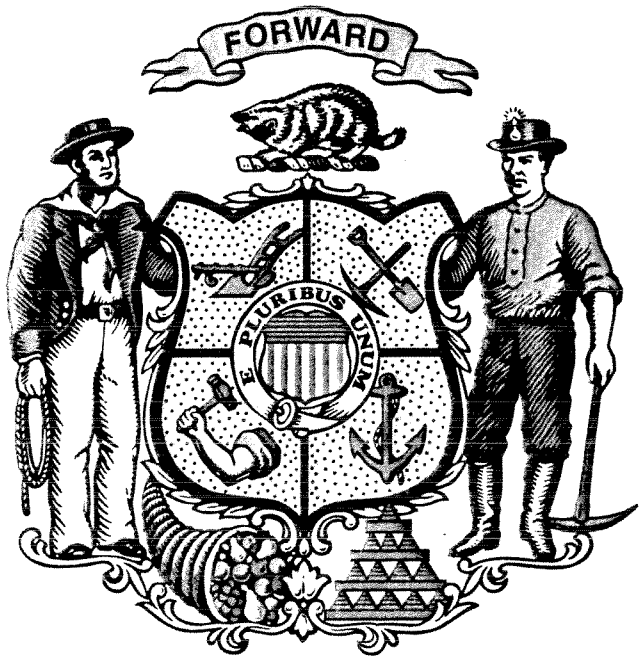
Defenders of the current system sometime argue that since doctors usually prevail in medical liability trials, they suffer no adverse consequences if the system erroneously targets them. This argument is demonstrably false. For example, claims data show that even cases that are dropped or dismissed generate legal bills for the defendant that average nearly $17,000 and legal defense costs in medical liability trials are virtually identically for guilty and non-guilty verdicts.

More importantly, merely being sued entails substantial costs aside from any payment to claimants. Doctors must devote a significant amount of time to the claim, such as meeting with lawyers, giving depositions, and time in court. Whereas payments to claimants are generally paid for by their insurance coverage, this time cost imposes direct financial losses due to time away from their practice. Similarly, even if doctors are exonerated in liability claims, they still can suffer damage to their reputation which bears financial consequences as well. Lastly, the act of being sued causes significant psychological stress, a non-financial cost that can never be reimbursed. Even if they have done nothing wrong, these costs constitute a substantial penalty for doctors who are sued.

CONCLUSION

In practice, the medical liability system departs dramatically from its two central goals of punishing negligent doctors (i.e., deterrence) and compensating patients with negligently-caused injuries. Given the facts noted above, two conclusions are apparent. First, the existing medical liability system is hamstrung in providing an effective deterrent to negligent injuries for the simple reasons that most negligent acts go unpunished and most doctors who are sued are not guilty of negligence. In the effort to punish the 3 percent of negligent injuries that actually result in a liability claim, the system ends up penalizing four innocent doctors for every one that is negligent. Second, the medical liability system fails to meet its goal of compensating the negligently injured because the vast majority of negligently-injured patients do not file a liability claim. If victims of negligence do not file liability claims, then the liability system cannot compensate them for their losses. In sum, the observable facts of the current medical liability system demonstrate that in practice, the system is both inefficient and ineffective at meeting its goals.

This Research Report is based in part on the Joint Economic Committee study *Liability for Medical Malpractice: Issues and Evidence* (May 2003). For a copy of this study, contact the JEC at (202) 226-3234 or visit the website www.house.gov/jec.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America's Medical Liability Crisis - State Backgrounders

Texas

- In 2003, the Texas legislature enacted H.B. 4, legislation containing sweeping medical liability reforms, including reasonable limits on non-economic damages. Texas voters took another important step when they approved Proposition 12 amending the state constitution to specifically allow the legislature to enact caps on non-economic damages in health care cases. (AMA Analysis)

- Shortly after passage of H.B 4 and Proposition 12, Texas Medical Liability Trust (TMLT), the largest medical liability insurer in Texas, reduced premiums 12 percent. In Sept. 2004, TMLT reduced premiums an additional five percent. The total rate reduction of 17 percent represents a $34 million savings to physicians and patients in Texas. Since then, the next four largest insurers in the Texas medical liability market have also reduced rates providing Texans with an additional $16 million in relief. (Texas Alliance For Patient Access)

- In addition to the meaningful cap on non-economic damages, many of the insurers in Texas identified the constitutional amendment as the key factor that provided the level of certainty to the market necessary to allow them to reduce premiums. Medical Protective President & Chief Executive Officer Tim Kenesey commented: "Of the several tort reform measures passed in various states over the last 24 months, we firmly believe that the Texas reforms will be the most effective -- in large part due to the greater constitutional certainty provided by Prop 12." (GE Insurance Solutions, April 7, 2005)

- Now, for the first time in years, Texas physicians can competitively shop for medical liability policies. In 1999, seventeen companies were writing new medical malpractice policies in Texas. That number slid to four in 2002, according to the Texas Department of Insurance. As a result of H.B. 4 and Proposition 12, fifteen new insurance companies have started selling malpractice insurance in Texas or will do so soon. Texas Insurance Commissioner Jose Montemayor says flatly, "Competition is very much restored." (*Beaumont Enterprise*, February 22, 2005)

- More doctors are providing high-risk services since reforms passed. In April 2003, more than half the doctors surveyed in Texas said they had stopped providing high-risk services to patients. Nearly a year after the passage of sweeping medical liability reform, the percentage of physicians with restrictions on high-risk cases had dropped to just 13 percent. (Texas Medical Association, August 23, 2004)

- Dr. David Cantu, a family practice physician from Fredericksburg, said he and his partner had to quit practicing obstetrics because of the cost of insurance. "Our overhead was hitting 100 percent," Cantu said. "I had a three-month stretch of no pay." As soon as they stopped delivering babies, the practice saw an immediate decrease in insurance costs, but at the same time, their patients from Fredericksburg, Mason, Boerne, Rockspring and Johnson City had to go elsewhere to deliver babies. But with Proposition 12, Cantu and his partner now are able to deliver babies. "It did cause an immediate effect for my patients," he said. (*San Antonio Express-News*, August 27, 2004)

- Texas has had greater success in recruiting and keeping doctors since voters passed Proposition 12. Texas is gaining doctors in often-sued specialties such as obstetrics, anesthesiology and neurosurgery after seeing little growth in those specialties for years. (*The Dallas Morning News*, September 26, 2004)

- Proposition 12 passing has had immediate impact. According to Texas Alliance For Patient Access Chairman Dr. Howard Marcus, "there are now two more doctors delivering babies in Fredericksburg. Four anesthesiologists are establishing practice in Beaumont and the only two neurosurgeons in Bryan-College Station will keep their doors open. Four nonprofit nursing homes in Austin and San Antonio won't close and 610 elderly patients won't be put out on the streets." (*Austin American Statesman*, February 3, 2004)

America's Medical Liability Crisis - State Backgrounders

- Corpus Christi was at the epicenter of the state's health care crisis. Thanks to the passage of medical liability reforms, the city has emerged as perhaps the most reinvigorated medical community in Texas. One year after reforms were passed Corpus Christi added 47 new physicians. That is a stark contrast to the 40 physicians that were lost in the five years prior to reforms. (*Corpus Christi Caller-Times*, October 12, 2004)

- After four years of searching for a neurosurgeon, the Corpus Christi medical community was able to recruit Dr. Mathew Alexander from a Wisconsin residency program. Alexander said if Proposition 12 hadn't passed he would not have come to Texas. "I'm here to take care of patients, not worry about the legal ramifications of my practice," he said. "Practicing defensive medicine is expensive and doesn't provide good care. I know a lot of doctors are really bitter about it." (*Corpus Christi Caller-Times*, August 29, 2004)

- John Thomas, general counsel at Baylor Health Care System, said recruiting physicians in high-risk specialties was difficult prior to Proposition 12. "We couldn't get neurosurgeons to practice at downtown Baylor because of the risk of providing the trauma services," he said. Thomas credits medical liability reform for improvements in physician recruitment. In the first year since reforms were enacted, Baylor network added to its staff three neurosurgeons and a physician who treats women with high-risk pregnancies. (*Fort Worth Star-Telegram*, September 12, 2004)

- In the 18 months prior to the passage of lawsuit reform, the Beaumont medical community saw a net loss of 12 doctors. Since the passage of reforms the community has gained 21 physicians including five anesthesiologists and 15 emergency medicine physicians. (Texas Alliance For Patient Access)

- The historically underserved Rio Grande Valley has added 103 physicians since the passage of Texas' historic medical liability reforms. This includes 11 pediatricians, 10 family physicians, eight gastroenterologists and seven internists in Hidalgo County. Neighboring Cameron County has picked up 16 family physicians, six pediatricians, five ob/gyns and five internists. (Texas Alliance For Patient Access)

- Since the passage of Proposition 12, Webb County, situated along the Texas/Mexico border, now has an endocrinologist and a hematologist. Additionally, they've added seven family physicians and their sole radiologist has been joined by five new radiologists. (Texas Alliance For Patient Access)

- One year after Texas established medical liability reform, the rate of malpractice filings had decreased at least 80 percent in most major Texas counties. (*The Dallas Morning News*, September 26, 2004)

- Texas hospitals saw medical liability premiums fall an average eight percent for fiscal 2004 and 17 percent for fiscal 2005. (Texas Hospital Association)

- Christus Health System reported it would likely save $21 million on liability insurance in 2004 among the 48 Texas hospitals and facilities it owns or manages. "The primary factor in that is tort reform," said Randy Finley, Christus' director of risk management. "It's not the only factor, but it's the primary factor." (*The Dallas Morning News*, August 23, 2004)

- In 2004, Baylor Health Care System saw medical liability insurance premiums for the network's 350 physician employees drop 20 percent. (*Fort Worth Star-Telegram*, September 12, 2004)

TexasMedical Association

Physicians Caring for Texans

Professional Liability Insurance Reform

Tort Reform a Victory for Patient Access

Physicians' liability insurance premiums have continued to drop since the passage of Proposition 12 and the state's landmark 2003 health care liability reforms. In the first nine months of 2005 alone, all five of Texas' largest physician insurers announced rate cuts; together, they will produce roughly $48.6 million in annualized savings for Texas physicians. Since the passage of Proposition 12, five carriers have announced double-digit rate reductions. For the first time in years, Texas physicians can competitively shop their policies.

Meanwhile, lawsuit filings in most Texas counties have been cut in half since the passage of the 2003 reforms.

As a result of these improvements, patients' access to physician services is growing.

- Texas physicians have definitely slowed the rush to cut back on services. Some have even begun to reinstate some services.
- Before the reforms passed, the ranks of Texas internists, emergency care physicians, and orthopedic and neurosurgeons were flat or on the decline. From May 2003 through July 2005, however, more than 3,000 new doctors established practice in Texas; many of them serving in high-risk specialties and in medically underserved regions of the state.
- Some cities are experiencing unprecedented success in physician recruitment. In the year after reforms were passed, Corpus Christi added 47 new physicians. That is a stark contrast to the 40 physicians the city lost in the five previous years. Similarly, the Beaumont medical community saw a net loss of 12 doctors in the 18 months prior to the passage of lawsuit reform. In the following 18 months, the community gained 21 physicians including five anesthesiologists and 15 emergency medicine physicians.

"Well, we have seen insurance and doctors come back to the state," U.S. Rep. Michael Burgess, MD (R-Lewisville) told the *Congressional Record* on Sept. 21. "Texas had gone from 17 down to two medical insurance companies, and now they are back up to 12. Not-for-profit hospitals have seen significant increases in the money that they are now able to invest in plant and equipment, money that otherwise would have gone for their self-insurance programs. And perhaps most importantly, the rates of liability insurance for Texas doctors have come down."

Texas Medical Liability Trust (TMLT) will reduce physicians' liability insurance premiums by another 5 percent beginning Jan. 1. TMLT also announced a dividend for existing policyholders that will equal about 5 percent of their 2005 premiums. TMLT now has reduced premiums a cumulative 22 percent since Proposition 12 passed two years ago. "This is more proof positive that Texas' landmark 2003 medical liability reforms are doing their job," said TMA President Bob Gunby, MD. "Liability premiums are going down, and Texans today have more access to more physicians – physicians who will be there especially when they are very sick or terribly injured." More...

Doctors Ranks Grow With The Passage of Proposition 12

The number of doctors practicing in Texas has grown significantly since voters approved Proposition 12. Not only has the state gained more than 3,000 physicians but there has been a healthy influx of much-needed specialists and emergency medicine physicians

PowerPoint Presentation: The Texas Tort Reform Story

Want to share the secrets of our Proposition 12 and tort reform legislation victories? Download this new PowerPoint presentation for use in speaking to physician groups. (Updated March 1, 2004.)

Professional Liablity Insurance Issues in the 2005 Texas Legislature

- Professional Liability Reform Legislative Brief
- Let the Market Work: TMA Opposes Mandatory Liability Rate Rollbacks (*Texas Medicine*, April 2005)

Proposition 12: A Victory for Physicians and Patients

- Texas Liability Insurance Rates Dropping After Proposition 12 (TMLT rates)
- Proposition 12: A Victory for Texas Patients and their Physicians
- Texans Vote "Yes On 12"

Resources

- Survey: Personal Injury Lawyers Ads Scare Patients Into Court (Oct. 4, 2005)
- AMA Medical Liability Reform Physician Action Kit (April 25, 2003)
- America's Medical Liability Crisis: A National View (May 2004)
- California Medical Association's Medical Injury Compensation Reform Act Resource Center (May 1, 2003)
- Civil Justice Reform: Medical Professional Liability: Key Provisions of House Bill 4 and House Joint Resolution 3 of the 78th Texas Legislature – 2003 (June 17, 2003)
- Nationwide Review Supports $250,000 Hard Cap on Noneconomic Damages in Lawsuits Against Texas Health Care Providers
- Professional Liability Insurers
- Recent Entries/Applicants –Physicians and Other Medical Professional Liability Insurance (cumulative since May 2003) (September 2004)
- Summary of Texas Medical Professional Liability Law
- Texas Alliance for Patient Access (TAPA)

Links

- The American Academy of Pediatrics and Medical Liability
- American Healthcare Indemnity Company
- GE Medical Protective – Employers Reinsurance Corp.
- Lawsuit Abuse Makes Us Sick – Information about lawsuit abuse in the health care industry
- The National Perspective on Medical Liability Insurance (*AMNews*, Jan. 7, 2002)
- Texas Medical Liability Trust

TexasMedical Association

Physicians Caring for Texans

Texas Liability Rates Dropping After Prop 12

Since the enactment of House Bill 4 in the 2003 Texas Legislature and the voters' approval of Proposition 12, every professional liability insurance underwriter in Texas has reduced its premiums for physicians. This chart compares the average premiums for physicians in various specialties and various parts of the state as charged by Texas Medical Liability Trust (TMLT), the largest carrier in Texas, for three years: 1999, at the start of the health care liability crisis; 2003, at the height of the crisis; and 2005, in the first full year post-reform. TMLT policies are available only to TMA members.

Dallas-Fort Worth | Austin - San Antonio | El Paso - Valley | Panhandle - Lubbock | Nueces County

Houston and Southeast Texas

$500,000/$1 million coverage

Specialty	2005	% change 2003-2005	2003	% change 1999-2003	1999
Internal Medicine	$15,096	-16.4%	$18,057	162.8%	$6,871
Anesthesiology	$19,398	-16.4%	$23,204	109.6%	$11,069
General Surgery	$39,077	-16.4%	$46,743	151.4%	$18,590
OB/GYN	$47,287	-16.4%	$56,564	87.9%	$30,105
Neurosurgery	$86,574	-16.4%	$103,558	151.4%	$41,197

$1 million/$3 million coverage

Specialty	2005	% change 2003-2005	2003	% change 1999-2003	1999
Internal Medicine	$19,126	-16.4%	$22,878	163.8%	$8,673
Anesthesiology	$24,577	-16.4%	$29,399	105.9%	$14,276
General Surgery	$49,511	-16.4%	$59,224	139.6%	$24,715
OB/GYN	$59,913	-16.4%	$71,666	88.8%	$37,957
Neurosurgery	$109,690	-16.4%	$131,208	142.0%	$54,211

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Dallas-Fort Worth

$500,000/$1 million coverage

Specialty	2005	% change 2003-2005	2003	% change 1999-2003	1999

Internal Medicine	$14,249	-16.4%	$17,044	157.3%	$6,624
Anesthesiology	$16,508	-16.4%	$19,747	91.3%	$10,321
General Surgery	$40,285	-16.4%	$48,187	130.4%	$20,918
OB/GYN	$44,937	-16.4%	$53,752	110.5%	$25,539
Neurosurgery	$87,306	-16.4%	$104,433	135.4%	$44,359

$1 million/$3 million coverage

Specialty	2005	% change 2003-2005	2003	% change 1999-2003	1999
Internal Medicine	$18,053	-16.4%	$21,595	157.4%	$8,389
Anesthesiology	$20,915	-16.4%	$25,018	93.1%	$12,955
General Surgery	$51,040	-16.4%	$61,052	135.8%	$25,894
OB/GYN	$56,935	-16.4%	$68,104	105.4%	$33,164
Neurosurgery	$110,617	-16.4%	$132,317	129.0%	$57,777

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Rest of Texas (includes Austin and San Antonio)

$500,000/$1 million coverage

Specialty	2005	% change 2003-2005	2003	% change 1999-2003	1999
Internal Medicine	$13,064	-16.4%	$15,626	151.8%	$6,205
Anesthesiology	$15,679	-16.4%	$18,755	87.9%	$9,983
General Surgery	$33,899	-16.4%	$40,549	126.0%	$17,943
OB/GYN	$48,687	-16.4%	$58,238	95.9%	$29,730
Neurosurgery	$73,199	-16.4%	$87,559	105.8%	$42,548

$1 million/$3 million coverage

Specialty	2005	% change 2003-2005	2003	% change 1999-2003	1999
Internal Medicine	$16,551	-16.4%	$19,797	151.9%	$7,858
Anesthesiology	$19,866	-16.4%	$23,764	89.6%	$12,531
General Surgery	$42,950	-16.4%	$51,375	131.3%	$22,212
OB/GYN	$61,687	-16.4%	$73,789	91.1%	$38,608
Neurosurgery	$92,742	-16.4%	$110,936	100.2%	$55,417

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Rio Grande Valley and El Paso

$500,000/$1 million coverage

Specialty	2005	% change 2003-2005	2003	% change 1999-2003	1999
Internal Medicine	$17,376	-16.4%	$20,785	108.2%	$9,982
Anesthesiology	$27,168	-16.4%	$32,497	60.1%	$20,300
General Surgery	$46,980	-16.4%	$56,196	90.6%	$29,484
OB/GYN	$60,919	-16.4%	$72,869	64.0%	$44,429
Neurosurgery	$95,215	-16.4%	$113,893	75.3%	$64,960

$1 million/$3 million coverage

Specialty	2005	% change 2003-2005	2003	% change 1999-2003	1999
Internal Medicine	$22,015	-16.4%	$26,334	108.3%	$12,642
Anesthesiology	$34,422	-16.4%	$41,174	61.6%	$25,480
General Surgery	$59,523	-16.4%	$71,200	95.1%	$36,500
OB/GYN	$77,184	-16.4%	$92,326	60.0%	$57,697
Neurosurgery	$120,638	-16.4%	$144,303	70.6%	$84,606

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Panhandle-Lubbock

$500,000/$1 million coverage

Specialty	2005	% change 2003-2005	2003	% change 1999-2003	1999
Internal Medicine	$9,622	-16.4%	$11,509	125.0%	$5,115
Anesthesiology	$15,811	-16.4%	$18,913	91.3%	$9,885
General Surgery	$25,907	-16.4%	$30,990	129.6%	$13,500
OB/GYN	$32,408	-16.4%	$38,765	81.8%	$21,327
Neurosurgery	$66,685	-16.4%	$79,766	130.4%	$34,628

$1 million/$3 million coverage

Specialty	2005	% change 2003-2005	2003	% change 1999-2003	1999
Internal Medicine	$12,190	-16.4%	$14,582	125.1%	$6,478
Anesthesiology	$20,033	-16.4%	$23,963	93.1%	$12,407
General Surgery	$32,826	-16.4%	$39,266	135.0%	$16,712
OB/GYN	$41,062	-16.4%	$49,117	77.3%	$27,696

Neurosurgery	$84,490	-16.4%	$101,064	131.0%	$43,748

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Nueces County	$500,000/$1 million coverage				
Specialty	**2005**	**% change 2003-2005**	**2003**	**% change 1999-2003**	**1999**
Internal Medicine	$15,939	-16.4%	$19,065	207.3%	$6,205
Anesthesiology	$23,339	-16.4%	$27,917	179.6%	$9,983
General Surgery	$42,620	-16.4%	$50,981	184.1%	$17,943
OB/GYN	$56,842	-16.4%	$67,993	128.7%	$29,730
Neurosurgery	$87,877	-16.4%	$105,116	147.1%	$42,548

	$1 million/$3 million coverage				
Specialty	**2005**	**% change 2003-2005**	**2003**	**% change 1999-2003**	**1999**
Internal Medicine	$20,194	-16.4%	$24,155	207.4%	$7,858
Anesthesiology	$29,570	-16.4%	$35,371	182.3%	$12,531
General Surgery	$53,999	-16.4%	$64,592	190.8%	$22,212
OB/GYN	$72,019	-16.4%	$86,147	123.1%	$38,608
Neurosurgery	$111,340	-16.4%	$133,182	140.3%	$55,417

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Source: Texas Medical Liability Trust

$500,000/$1,000,000 coverage = $500,000 per occurrence and $1 million total
$1,000,000/$3,000,000 coverage = $1 million per occurrence and $3 million total

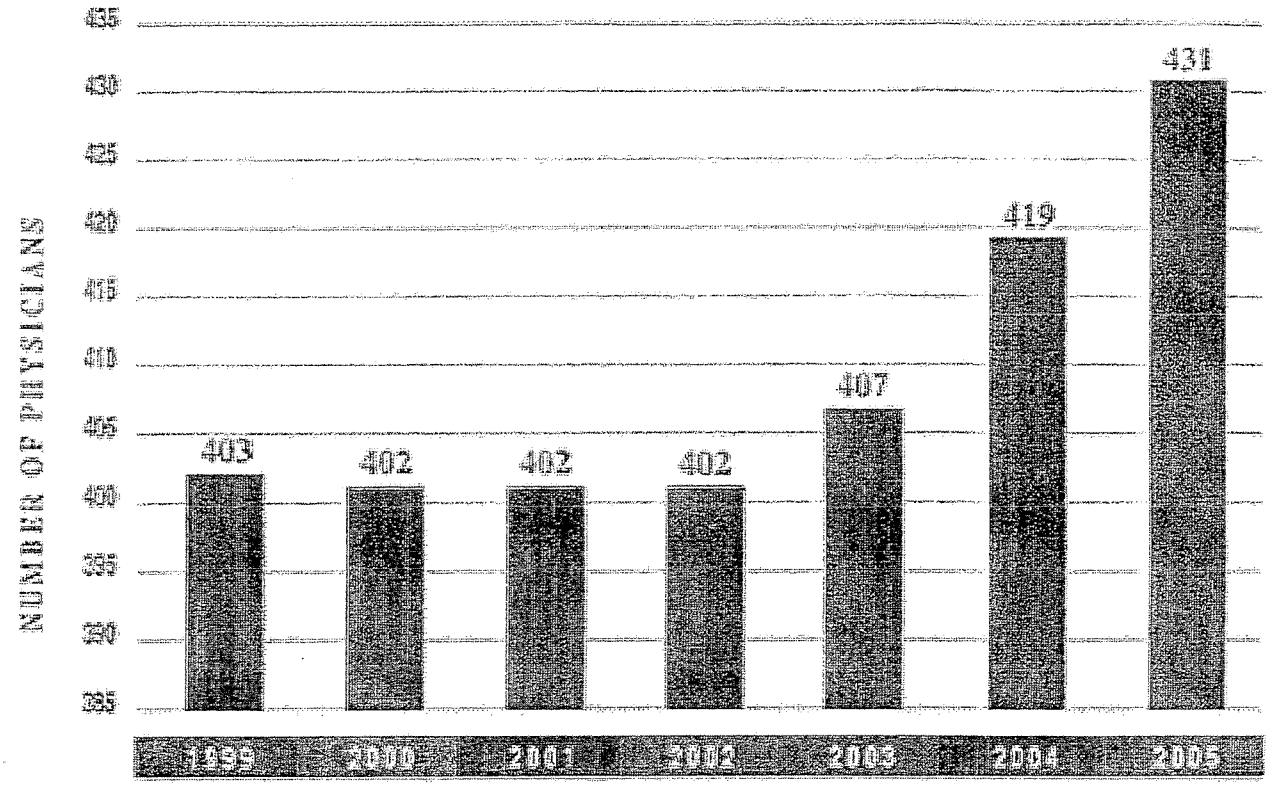
http://www.texmed.org/Template.aspx?id=3868

The following slides show the number of physicians in Texas by specialty according to data from the Texas State Board of Medical Examiners. Texas enacted its cap on non-economic damages in 2003.

The slides were obtained from the website of the Texas Alliance for Patient Access on February 21, 2006:
http://www.tapa.info/HTML/GrowthSpeclCharts.html

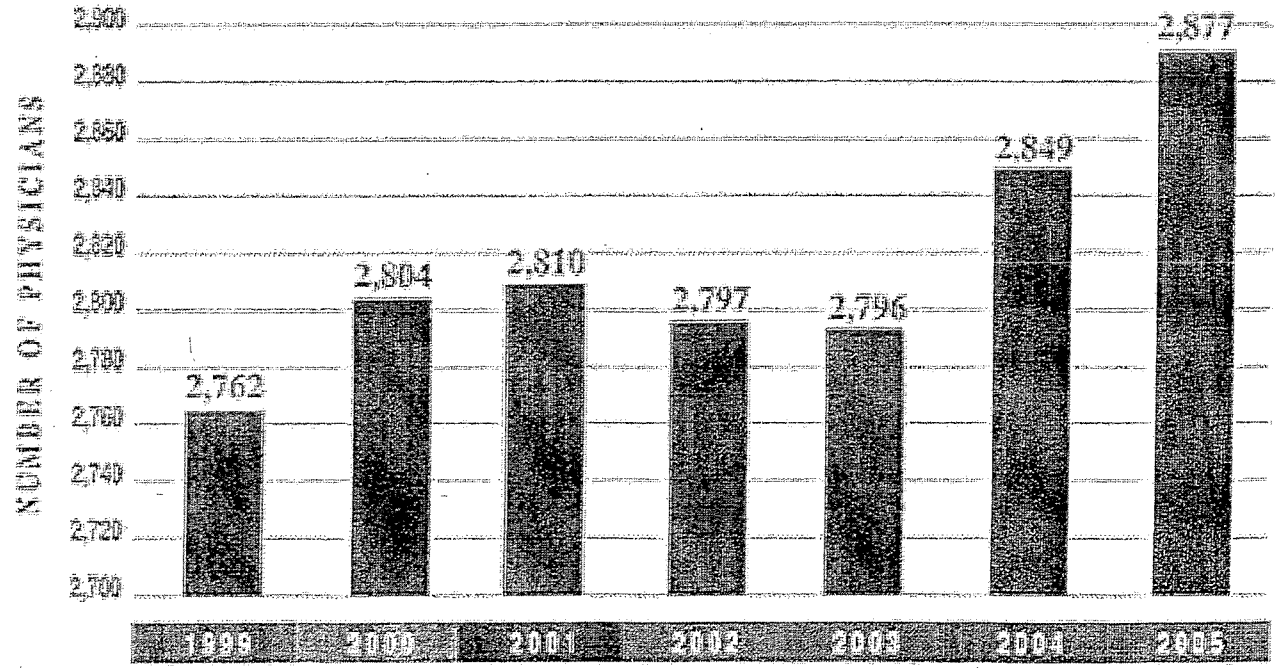
Texas Alliance For Patient Access - 6225 Highway 290 East, Suite 142 - Austin, TX 78723 -
(512) 465-1516

NEUROSURGEONS IN TEXAS (1999 - 2005)



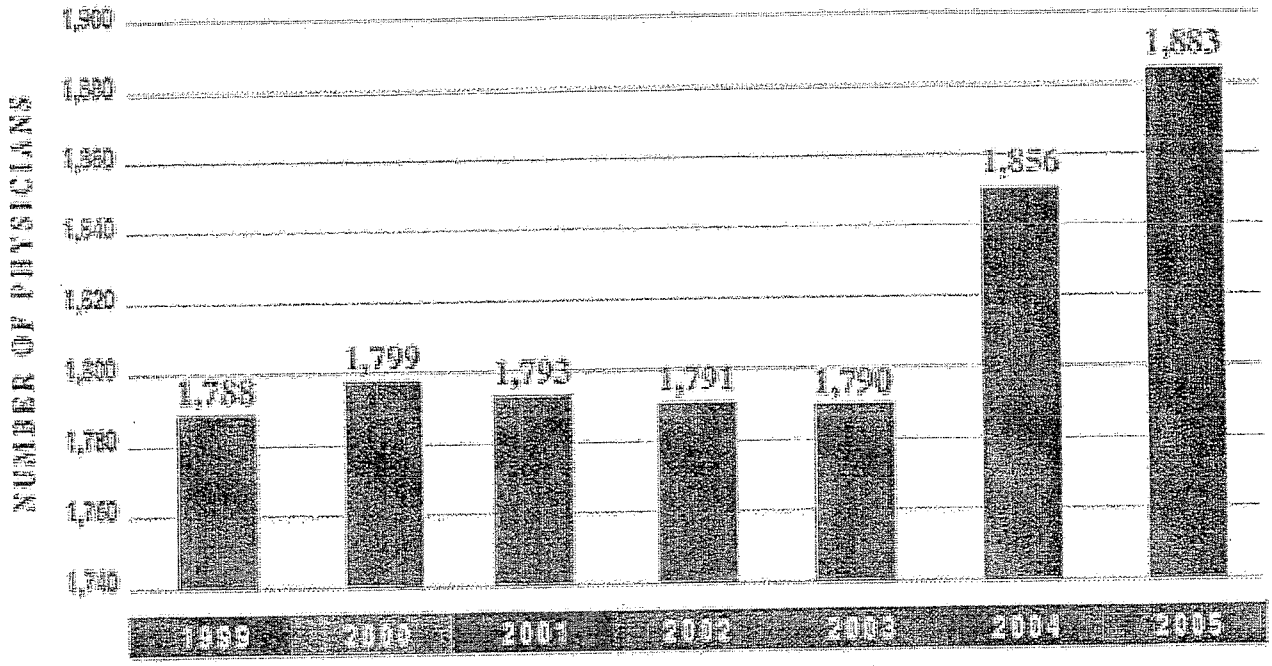
Source: Texas State Board of Medical Examiners

OB/GYN PHYSICIANS IN TEXAS (1999 - 2005)



Source: Texas State Board of Medical Examiners

ORTHOPEDIC SURGEONS IN TEXAS (1999 - 2005)



Source: Texas State Board of Medical Examiners