

## **Tennessee-to-Texas Medical Migration Holds Many Lessons for Lawsuit-Happy States**

By Joe Nixon

[Washington DC Examiner](#)

June 14, 2007

Tennessee has sent Texas two famous leaders in Sam Houston and Davy Crockett and is now sending its doctors. Sixty-three Tennessee doctors are currently asking to be licensed in the Lone Star State because of liability protections Texas passed in 2003.

Before 2003, Texas faced a medical-liability crisis, just like the one Tennessee now faces. With thousands of unnecessary claims against doctors, insurance rates were skyrocketing. Pre-reform, 86 percent of claims against Texas doctors resulted in no payment to the patient. But the doctors still had to pay heavy defense costs, which raised insurance rates for all, even those who had never been sued.

Doctors were spending too much time in depositions and at the courthouse and not enough time caring for patients. Many doctors were retiring early, restricting their practices, or simply leaving Texas.

Three-fifths of Texas counties lacked a single obstetrician. Half didn't have a pediatrician. San Antonio did not have enough neurosurgeons for one to be on call around the clock, and there were no neurosurgeons south of Corpus Christi. Texas had rightly earned the moniker of a "judicial hellhole" when it came to suing doctors. Medical malpractice insurers were also leaving.

Their numbers dropped from 17 in 2000 to four by 2003. One of the remaining four was the insurer of last resort funded by Texas taxpayers. The lack of medical malpractice insurers was also problematic because doctors cannot practice legally without insurance. When given the choice between limited access to health care or limited damages in lawsuits, Texans chose better health care.

In 2003, the Texas legislature passed sweeping common-sense lawsuit reforms that included requiring plaintiffs' medical experts to practice medicine in the same field as the doctor being sued, reports to be filed at the beginning of a suit establishing how the doctor actually erred, and limiting non-economic damages, such as impossible to quantify pain and suffering, to \$250,000. These reforms produced enormous dividends.

Suits against Texas's doctors have been cut in half. Not surprisingly, malpractice insurance premiums have plummeted by as much as 42 percent. Thirty new malpractice insurers are competing for business, up from just four before the 2003 reforms.

Texas Medical Liability Trust, the largest insurer of doctors, has reduced rates and given dividends amounting to more than \$138 million in savings for their insured physicians. A record number of physicians have also moved to Texas.

Each month, the Texas Medical Board processes a new record number of applicants. Texas has moved from 47th worst in the ratio of citizens per doctor to 41st in just three years. Experienced doctors are coming from all over the country, with the worst litigation states sending the most doctors. Tennessee has sent 250 physicians so far, with 63 more applications on file.

Access to health care has improved dramatically. The physician growth rate in San Antonio is a whopping 52 percent. Doctors are even moving to those counties that had the worst lawsuit-happy reputations.

Since 2003, 128 physicians, including neurosurgeons and obstetricians, have moved to Hidalgo and Cameron Counties. Texas has added 7,000 physicians since 2003, especially in rural, previously underserved areas, and in high-risk specialties.

In contrast, the American Bar Association reports that Texas plaintiff lawyers are leaving medical-liability litigation “in droves” and many are fleeing the state. These positive results were obtained through meaningful lawsuit reform.

Texans decided they would rather have more health care and fewer lawsuits. They wanted doctors to stay in Texas and stay in practice. What was not anticipated was the number of physicians who would choose to relocate to Texas.

Other states should learn from Texas. If Tennessee does not adopt similar common-sense reforms, look for another wave of “Gone to Texas” signs being posted in the Volunteer State — this time at the local medical center.

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