

Record Number of Physicians Flock to Texas, Group Credits Tort Reform
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By David Yates
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Since Texas enacted medical liability reforms more than a decade ago, physicians have been migrating to the Lone Star State in record numbers nearly every year, with an all time record high in 2015.

The Texas Medical Board licensed a record number of new physicians for the fiscal year that ended in August, surging past the 4,000 mark for the first time in history.

According to data provided by the Texas Alliance For Patient Access, the board licensed 4,295 new Texas doctors, up 7.5 percent from the previous year's record of 3,994.

The number of license applications received (5,377) also broke the record of 5,150 set in 2014.

"Twelve years since the passage of our historic 2003 medical liability reforms, we continue to attract new physicians to Texas in record numbers," said Dr. Howard Marcus, an Austin physician and TAPA chairman. "I don't at all find that to be a coincidence."

Marcus says many factors determine where a physician hangs his or her hat, but considering a physician will pay around \$30,000 in premiums in Texas, suppose to \$200,000 in New York, the gaping differential between states can become a driving force.

"And it's not just a matter of the premium – it's also an issue of the risk of getting into a meritless lawsuit," said Marcus. "In terms of morale, one's ability to get through the day without constantly looking over one's shoulder can be a driving factor."

Plagued by a shortage of physicians, Texas made House Bill 4 and Proposition 4 law in 2003, capping non-economic damages on medical malpractice claims at \$250,000 and requiring plaintiffs to submit an expert report within 120 days of bringing suit.

Since the passage of the lawsuit reforms 12 years ago, Texas has licensed an average of 3,432 new physicians each year, "far outstripping population growth," says Marcus.

"As we promised during the campaign for liability reform, passage of House Bill 4 and Proposition 12 have reversed the epidemic of lawsuit abuse and, in turn, provided sick and injured Texans with better access to lifesaving care," said Marcus.

Opponents of med-mal reform, such as Texas Watch, a trial-lawyer supported consumer protection group, argue the 2003 reforms restrict the rights of patients and allow corporate wrongdoers to evade responsibility.

Conversely, Marcus says the cost of defending med-mal suits is in the range of 2 percent of

total health care, a marginal number in eyes of the opponents of reform. But the real issue, he says, is the 2 percent falls directly in the lap of the physician, not the hospital or insurer.

“It’s not 2 percent for us,” Marcus said. “That cost is going to be a very substantial cost for the physician. That’s why we physicians are attracted to a state with liability reforms that are fair and reasonable and result in premiums that are tolerable.”

Before med-mal reform, Texas was down to four med-mal carriers, says Marcus, adding that reform opponents over the years have blindly and ignorantly said all the money is going to the insurance companies.

“They (med-mal insurers) were leaving us as quickly as they could,” Marcus said. “The number now is around 40. It’s exploded, and that means more competition and reduced rates. And all of that competition is ultimately good for patients because they can get more access to care.”

Dr. Marcus practices internal medicine at Austin Regional Clinic and has been named a “Super Doctor” by Texas Monthly from 2007 – 2014.