

Ten Years After: Reform Means More Docs, More Care
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Drs. Justin and Katherine Hensley couldn't get to Texas quickly enough.

The young emergency physician and his pediatrician wife were completing their medical residencies in North Carolina. Without medical liability reform similar to what Texas passed in 2003, Dr. Justin Hensley routinely had to test his patients — for the wrong reason.

“I had a 30-year-old patient who'd already had 20 CT scans. It's difficult for me to understand how that many scans could be justified on someone so young. But because of the liability climate in North Carolina, residents were instructed to order tests, regardless of their necessity,” said Dr. Justin Hensley, a member of the Texas Medical Association (TMA) Committee on Emergency Medical Services and Trauma.

When they completed their residency training, the couple searched the country for a place to which they could move and begin caring for patients. They chose Texas.

“I knew I didn't want to live and practice in a state that lacks tort reform, where physicians are liability targets. That environment forces physicians to make medical decisions based on protecting themselves instead of doing what's actually right for the patients,” Dr. Katherine Hensley told TMA's Texas Medicine magazine. The September issue of the magazine celebrates the 10th anniversary of the passage of Texas' historic 2003 liability reforms.

North Carolina's loss was Texas' gain. The husband-and-wife physicians selected Corpus Christi for their practice location in 2011. They believe they made the right decision; they serve patients there and admire the patient-first attitude of their local physician colleagues.

“My experience in Texas has been that surgeons will proceed with the appropriate procedure based on a clinical diagnosis,” said Dr. Katherine Hensley. “In Texas, I get to practice medicine according to what's right for the patient, not based on what keeps me from getting sued.”

These physicians are among the many doctors who, along with their patients, enjoy the positive effects of Texas' medical liability reform: More doctors to care for patients, deciding on care based on those patients' best interest.

Ten years ago, TMA physicians and medical students banded together to push for passage of landmark medical liability reforms. The Medical Malpractice and Tort Reform Act of 2003, House Bill 4, went into effect Sept. 1 that year. Twelve days later, Texas voters approved Proposition 12, an amendment to the Texas Constitution that validated the legislature's actions. HB 4 caps noneconomic damages in medical liability cases. Texas'

\$750,000 total cap includes a \$250,000 liability limit per physician for noneconomic damages such as pain and suffering. The tort reform act doesn't restrict economic damages.

Record numbers of physicians have relocated here to care for Texas patients since the passage of that law. Physicians already practicing here say they can recruit more specialists trained in Texas and from out of state, thanks to tort reform. In the fiscal year that ended Aug. 31, 2012, the Texas Medical Board received 4,253 medical license applications and processed 3,630. Compare that with 2003, when the board received only 2,561 applications and processed 2,513.

"Tort reform has done wonders for the state by attracting more physicians to practice here, improving access to care, and making it economically possible for physicians to continue caring for patients," Dr. Justin Hensley said.

He's talking about physicians like Sandra Williams, DO, an emergency physician at Houston's Ben Taub Hospital, who attended medical school in Florida and also chose to relocate to Texas due to its liability protections. She saw the struggles to provide good patient care in the Sunshine State, compared with the access to care she sees for Texas patients.

"The attending physicians and faculty members in Florida had to call multiple hospitals to find a specialist to treat a patient needing immediate medical attention. In Texas, specialists aren't afraid to take call, and I'm able to transfer patients to the care they need," Dr. Williams said.

Texas patients needing physician specialists of all types can more easily find the care they need now.

David Teuscher, MD, a Beaumont orthopedic surgeon and former member of the TMA Board of Trustees, says reform has made a big difference in his practice's ability to recruit doctors. "My group finally was successful in recruiting a fellowship-trained foot and ankle orthopedic surgeon after a long drought. That was impossible before HB 4 and Proposition 12," he said.

Before reform it was tougher for women to have a baby in Texas too, even in a city the size of Austin. Albert Gros, MD, an obstetrician-gynecologist, recalls serving on an Austin hospital board and losing about one-third of the hospitals obstetricians prior to 2003.

He says the liability climate and expensive medical liability insurance premiums demanded by the four carriers in the state at the time forced doctors out.

"When doctors give up obstetrics prematurely, it creates a shortage of physicians who can care for pregnant women," he said. "Tort reform made it possible for me to continue practicing [longer]."

TMA is the largest state medical society in the nation, representing more than 47,000

physician and medical student members. It is located in Austin and has 112 component county medical societies around the state. TMA's key objective since 1853 is to improve the health of all Texans.