

Legislative Priority: Safeguard Medical Liability Protections

PRIORITY

Preserve Texas' landmark medical liability reforms and prevent new liability risks that threaten access to care.

BACKGROUND

Every session, the Texas Medical Association is faced with fending off efforts that chip away at Texas' medical liability protections, which have been a linchpin in attracting physicians to practice in the state in record numbers. Those challenges routinely include attempts to index the state's non-economic damages cap to inflation.

Before the non-economic damages cap was in place, physicians struggled with sky-high medical liability insurance costs. That meant fewer viable practice options for Texas physicians and less access to care for rural patients or patients with complex needs.

Texas' non-economic damages cap could face threats after other states undermined similar, long-standing laws: California's and New York's state legislatures, for instance, recently passed laws that either gradually increase the existing non-economic damages cap (California) or broaden the types of damages that can be brought in wrongful death cases (New York), meaning medical liability insurance costs will likely rise in those states.

Meanwhile, recent lawsuits in other sectors have created pathways for courts to become more lenient with damage calculations – which puts pressure on existing protections, even in medicine, meant to limit excessive litigation and maintain fair liability standards.



TMA RECOMMENDATIONS:

- Protect Texas' medical liability protections that attract physicians to practice in Texas – which, in turn, increases Texas patients' access to care.
- Oppose any efforts to modify the caps on noneconomic damages and uphold protections for those providing emergency services.
- Oppose any proposals that would weaken the Texas Medical Board.
- Uphold the heightened standard of proof for medical liability cases arising out of the provision of emergency medical care in a hospital emergency department, in an obstetrical unit, or in a surgical suite immediately following the evaluation or treatment of a patient in a hospital emergency department.
- Enhance liability protections for physicians and health care providers who provide care during natural disasters and in the immediate aftermath.



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