

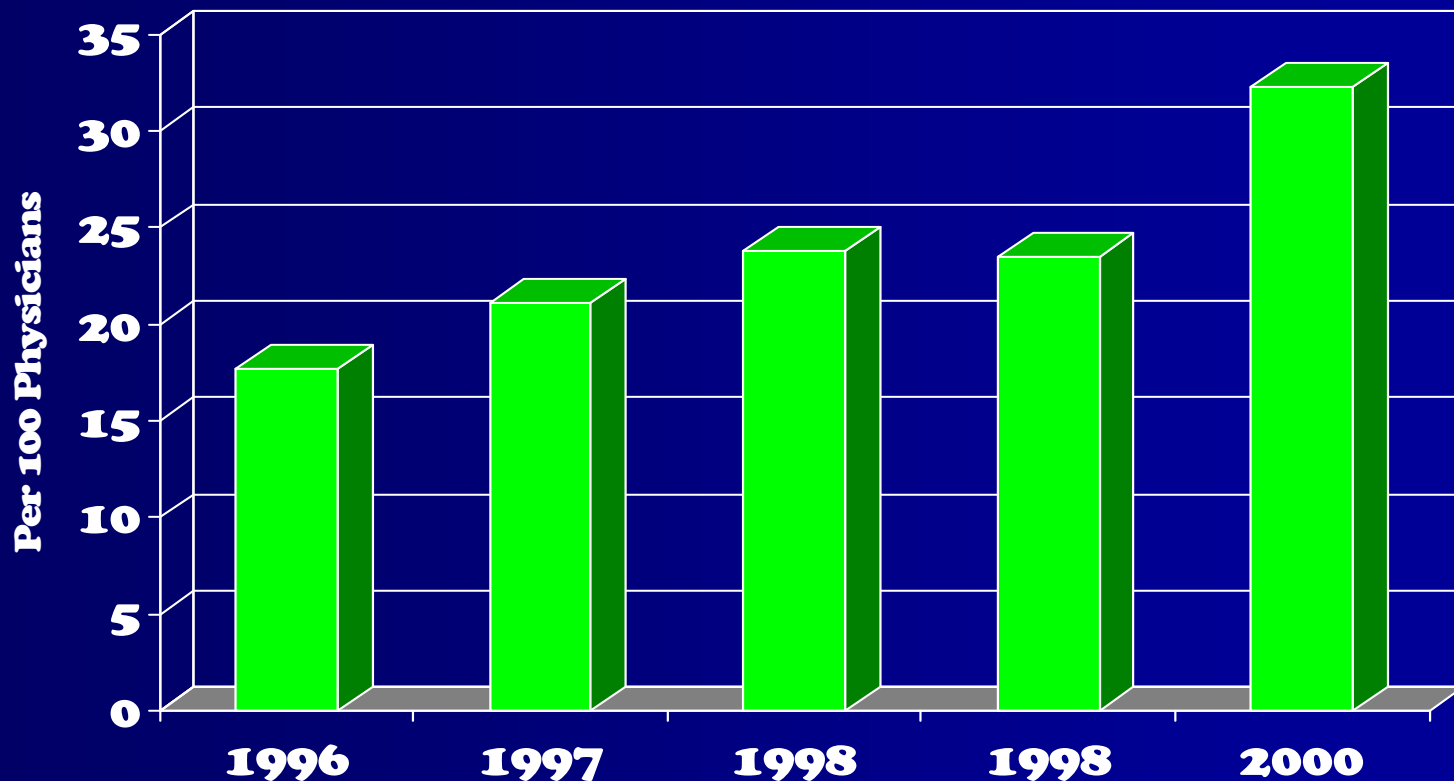
Medical Liability Reform: Texas Case Study

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Texas experience: 2003

- Texas doctors were being sued at nearly twice the national average.
- Jury verdicts for non-economic damages increasing unsustainably.
- Carriers quit writing policies or increased their premiums.

Claims Frequency for Texas Doctors Doubled in Five Years



Source: TDI

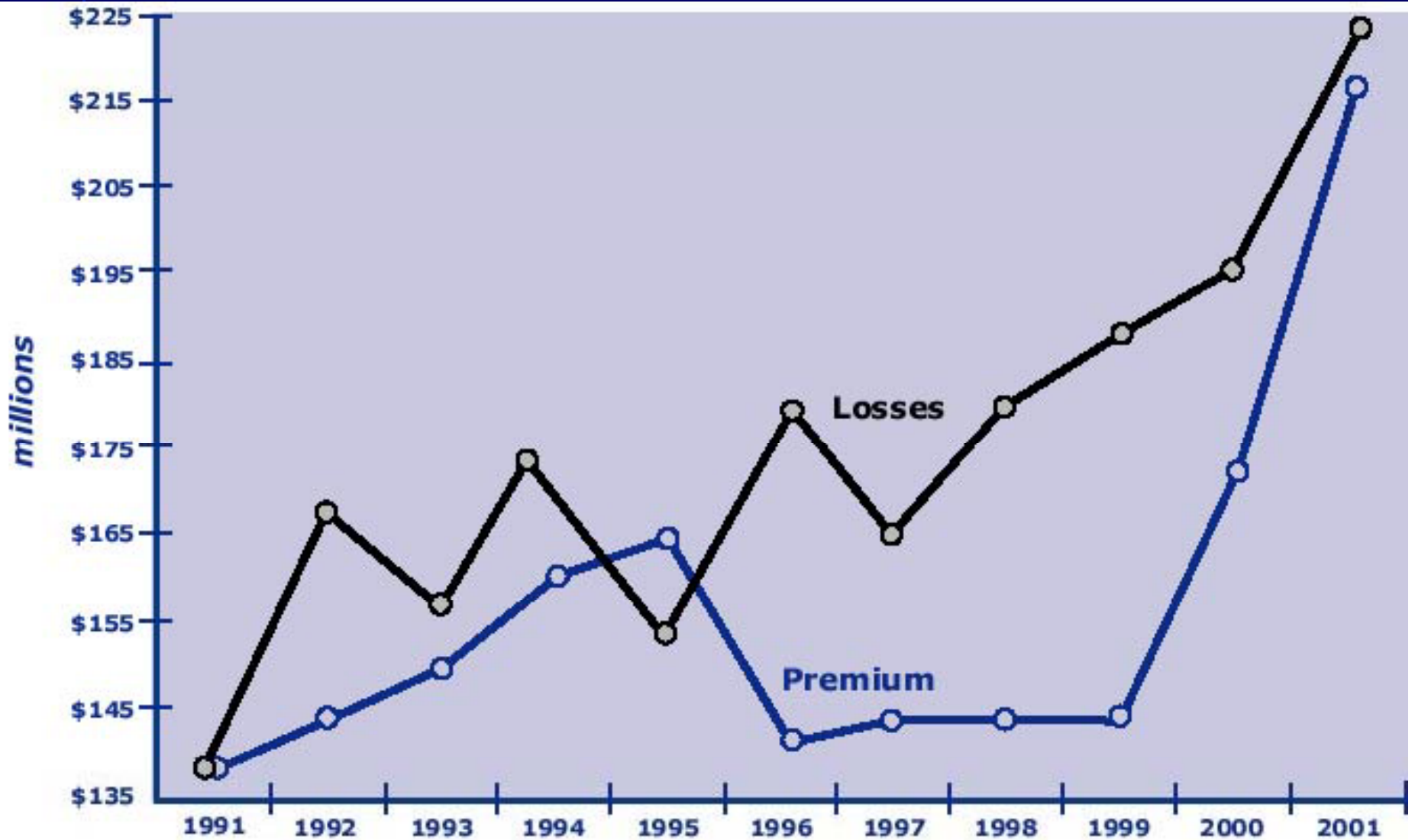
Settlements/awards paid per claim



Source: TMA Medical Liability Data Study

Written premiums vs. paid losses

Aggregate data for major insurance carriers



Source: TMA Medical Liability Data Study

Closed claims with no settlements or awards paid



Source: TMA Medical Liability Data Study

Average legal expenses per policyholder

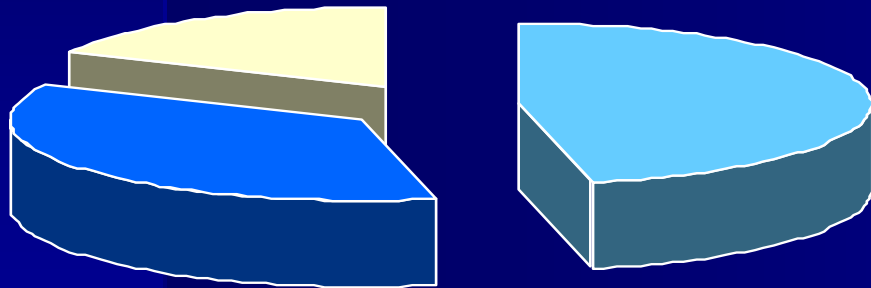


Source: TMA Medical Liability Data Study

Non-Economic Damages Quadrupled and Doubled

1990 in Texas

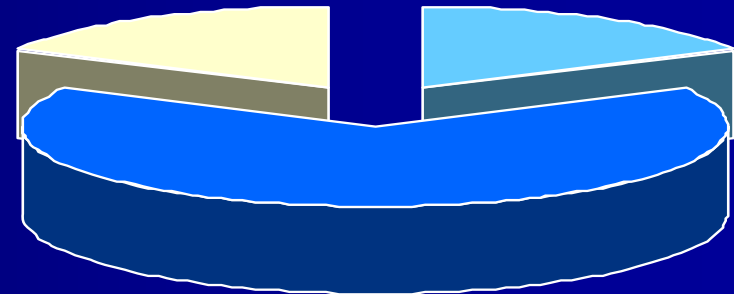
Average \$318,666 per case



36%

1999 in Texas

Average \$1,379,203 per case



66%

■ Economic ■ Non-economic ■ Other

■ Economic ■ Non-economic ■ Other

Source: TDI

***Carriers writing insurance
in Texas in 1998***

Frontier

PHICO

American Healthcare Indemnity

American Physician Insurance Exchange

The Doctor's Company

Western Indemnity

Fireman's Fund

The Medical Assurance Company

Chicago Company

TMLT

Lawrenceville (MIIX)

The Medical Protective Company

St. Paul

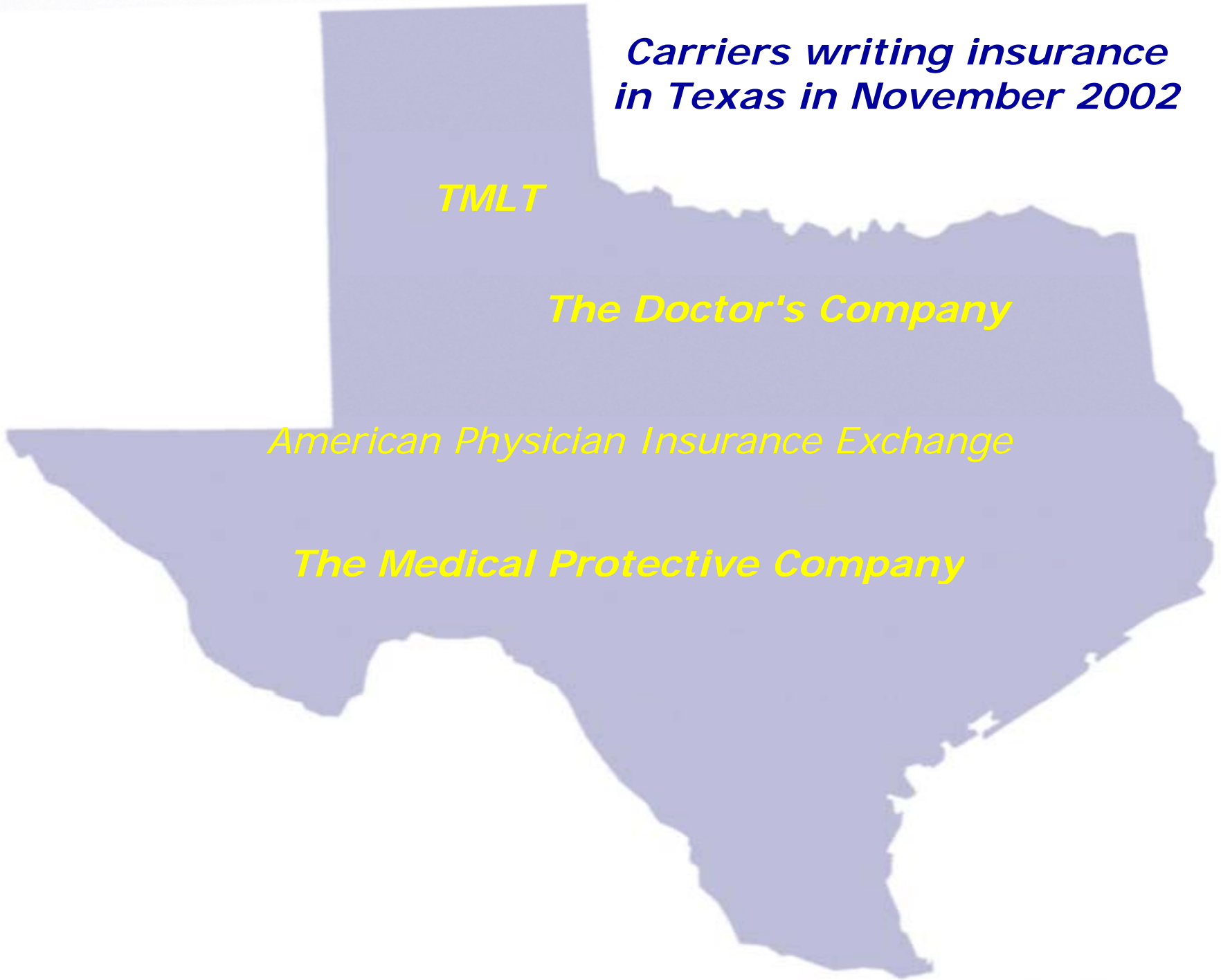
*Carriers writing insurance
in Texas in November 2002*

TMLT

The Doctor's Company

American Physician Insurance Exchange

The Medical Protective Company



The Consequences

- Physicians took early retirement.
- They relocated to “less risky” venues in state, or left Texas.
- Avoid high risk cases.
- Practice “defensive medicine”.
- Limited emergency patient care.

Goals for Reform

- Improve access to care
- Stem the loss of doctors
- Stabilize insurance costs

California MICRA has worked for 30 years

Hell



Texas Reform Package

- \$250,000 per defendant non-economic cap for all physicians in the aggregate.
- \$250,000 cap per healthcare facility
- Aggregate facilities cap is \$500,000.
- Cap is without exceptions and is not indexed to economic inflation.
- No limits on economic damages.

Other Included Reforms

- Sweeping expert witness reforms
- Emergency medical care burden of proof held at gross negligence
- Periodic payment for future medical & disability costs over \$100,000
- Expand Good Samaritan protections

What is not Capped?

- Past & future medical bills
- Past & future lost wages
- Custodial care including loss of income for spouse or loved one.
- Pre-judgment interest

Real damages are never capped!

The Vote

- HB4 and HJR3 both passed with over 2/3 vote in House and Senate with bipartisan support.
- Constitutional amendment Proposition 12 allowing non-economic caps was passed by the people of Texas.

Premium Results

- All major physician liability carriers in Texas have cut their rates.
- Texas physicians rates cut average 30%.
- High risk specialties - over 50% relief.
- The underwriting market is healthy and competitive with 30 new carriers.

Newly licensed doctors

- 2002: Texas licensed 2,038 new doctors, the fewest in a decade.
- 2008: Texas licensed 3,621 new doctors, the highest number of any year on record.
- Texas improved from 48th to 42nd in per capita doctors.

Doctors locating in medical underserved areas of Texas.

- El Paso: 76% greater than pre-reform.
- San Antonio: 55% greater than pre-reform.
- Rio Grande Valley has added 214 physicians.

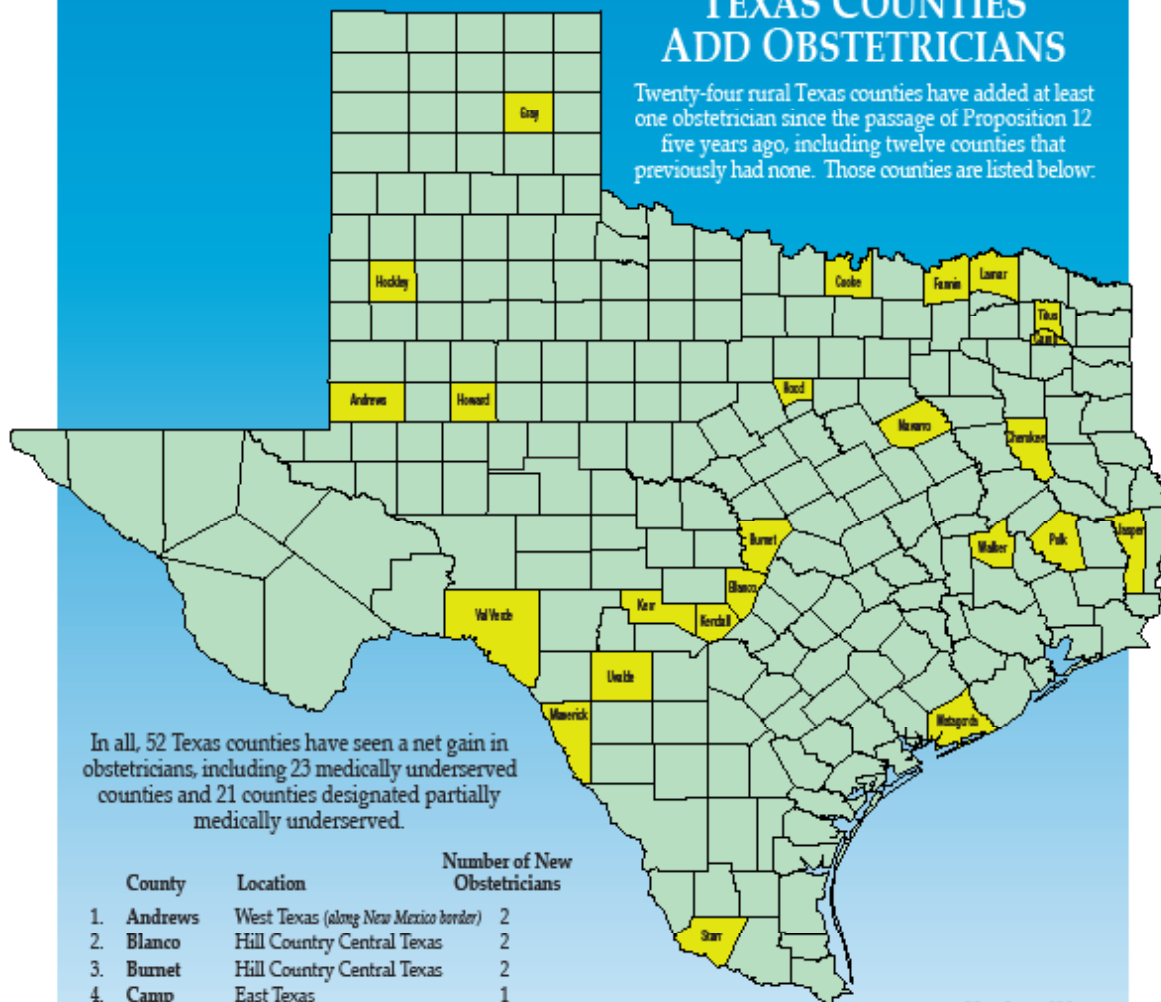
Obstetricians since reform

- Net gain of 192 statewide compared to net loss of 14 in two years before reform.
- 24 rural Texas counties have added at least one including 12 that had none.
- 52 counties - net gain since reform
 - 23 medically underserved counties
 - 21 partially medically underserved counties.

More access to care = healthy moms and babies

TWENTY-FOUR RURAL TEXAS COUNTIES ADD OBSTETRICIANS

Twenty-four rural Texas counties have added at least one obstetrician since the passage of Proposition 12 five years ago, including twelve counties that previously had none. Those counties are listed below:



In all, 52 Texas counties have seen a net gain in obstetricians, including 23 medically underserved counties and 21 counties designated partially medically underserved.

County	Location	Number of New Obstetricians
1. Andrews	West Texas (along New Mexico border)	2
2. Blanco	Hill Country Central Texas	2
3. Burnet	Hill Country Central Texas	2
4. Camp	East Texas	1
5. Cherokee	East Texas	2
6. Cooke	North Texas (Oklahoma border)	1
7. Fannin	North Texas (Oklahoma border)	1
9. Gray	Texas Panhandle	2
9. Hockley	Texas Panhandle	1
10. Hood	North Texas	2
11. Howard	West Texas	1
12. Jasper	East Texas	2
13. Kendall	Central Texas	1
14. Kerr	Southcentral Texas	1
15. Lamar	East Texas (along Oklahoma border)	1
16. Matagorda	Southeast Texas (along Gulf Coast)	1

County	Location	Number of New Obstetricians
17. Maverick	South Texas (along Mexico border)	1
18. Navarro	East Texas	2
19. Polk	East Texas	2
20. Starr	South Texas (along Mexico border)	1
21. Titus	East Texas	1
22. Uvalde	Southcentral Texas	1
23. Val Verde	South Texas (along Mexico border)	1
24. Walker	East Texas	2

Source: Office of Rural Community Affairs
Texas Department of State Health Services
Texas Medical Board
Texas Alliance For Patient Access

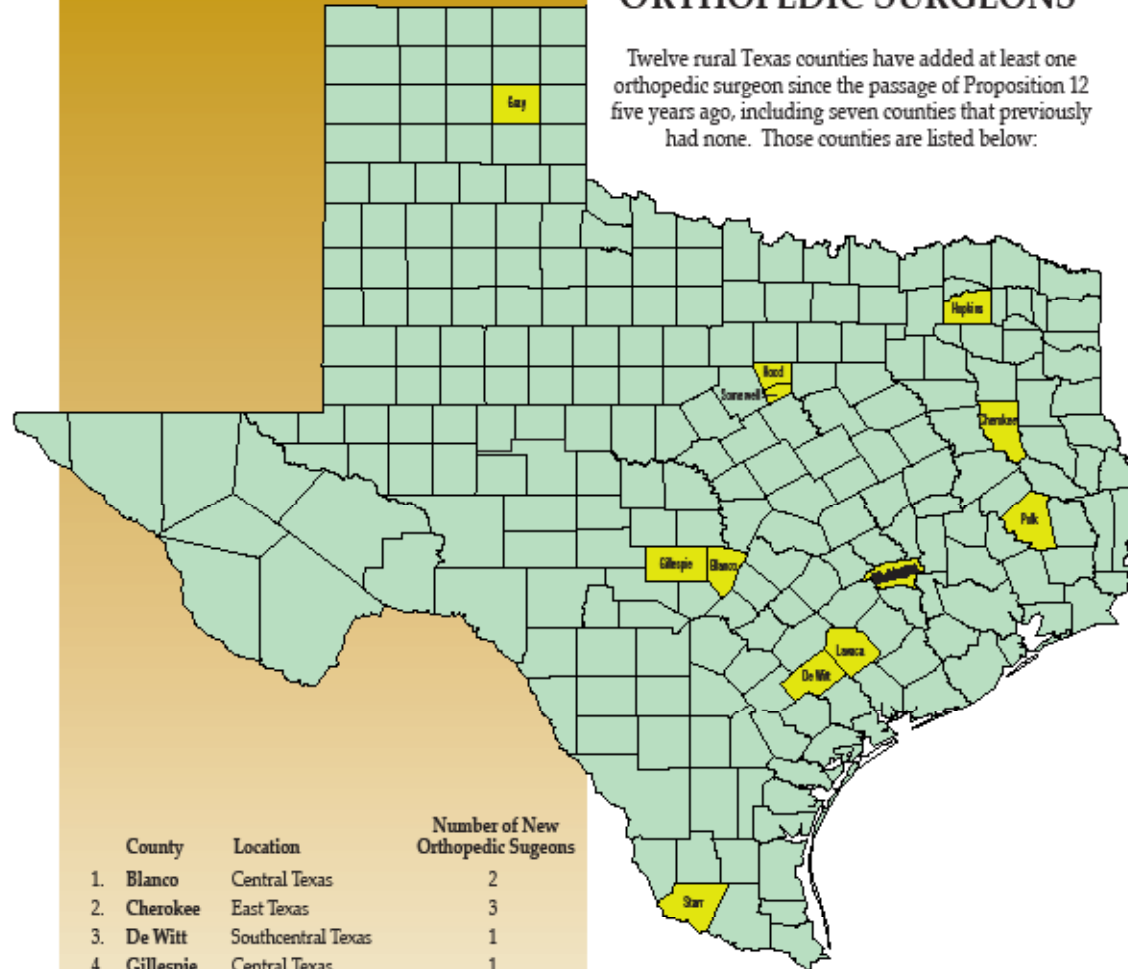
Orthopaedic Surgeon gains

- Two years before reform:
- Since reform a net 220 more; a 12.2% increase.
- 46 counties have gained Orthopaedists
 - 7 counties that previously had none
 - 11 rural counties
 - 11 medically underserved
 - 26 partially medically underserved

More access to limb threatening trauma care!

GAINS IN RURAL ORTHOPEDIC SURGEONS

Twelve rural Texas counties have added at least one orthopedic surgeon since the passage of Proposition 12 five years ago, including seven counties that previously had none. Those counties are listed below:



County	Location	Number of New Orthopedic Surgeons
1. Blanco	Central Texas	2
2. Cherokee	East Texas	3
3. De Witt	Southcentral Texas	1
4. Gillespie	Central Texas	1
5. Gray	Northeast Panhandle	1
6. Hood	Northeast Texas	2
7. Hopkins	East Texas	1
8. Lavaca	Southcentral Texas	1
9. Polk	East Texas	1
10. Somervell	North Texas	1
11. Starr	South Texas (along Mexico border)	1
12. Washington	Southeast Texas	2

In all, 46 Texas counties have seen a net gain in orthopedists, including 11 medically underserved counties and 26 counties designated partially medically underserved. Seven counties—Blanco, Cherokee, DeWitt, Hopkins, Lavaca, Somervell and Starr—did not have an orthopedic surgeon at the passage of Proposition 12 but now do.

Source: Office of Rural Community Affairs
Texas Department of State Health Services
Texas Medical Board
Texas Alliance For Patient Access

Neurosurgeon gains

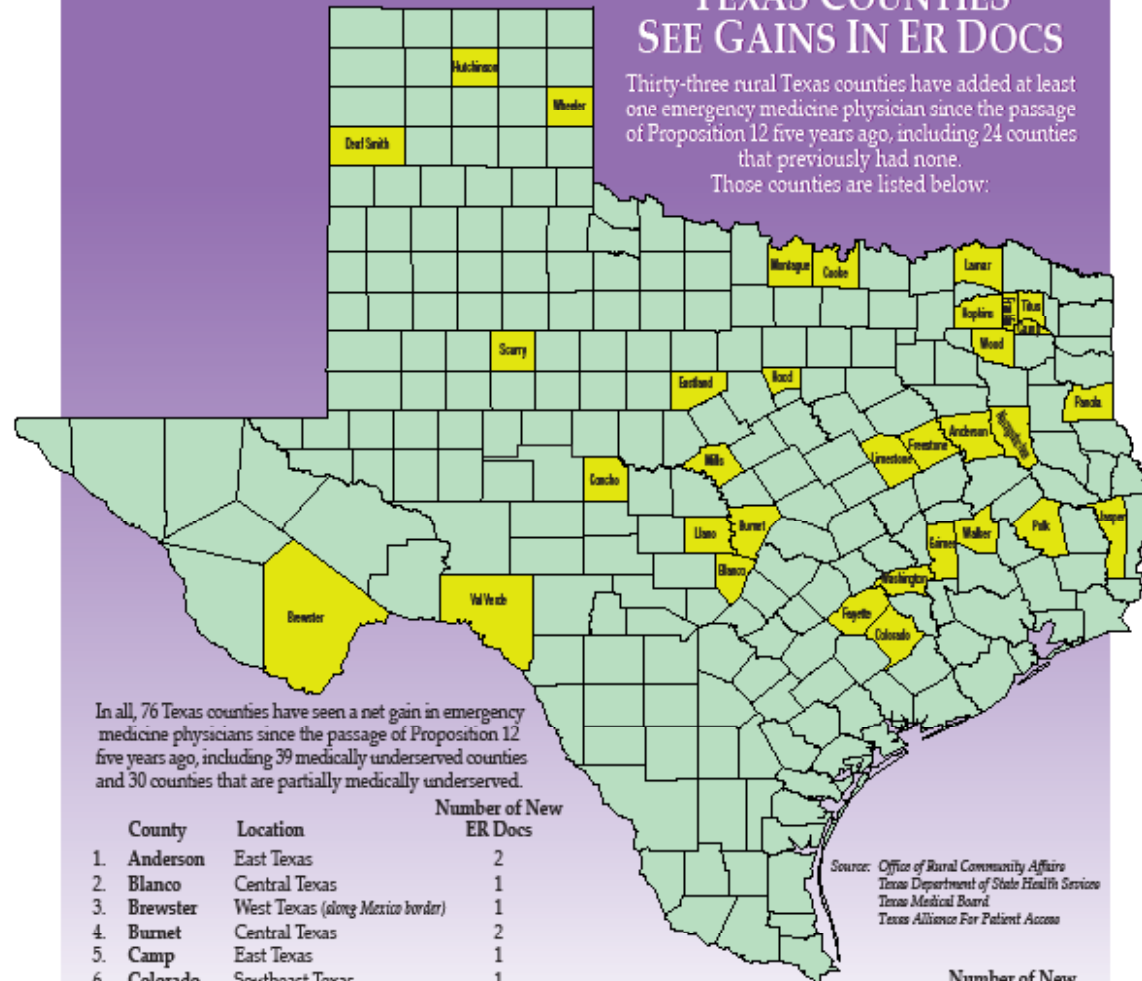
- Two years before reform – none
- After reform: net 49 neurosurgeons-- a 12% growth statewide.
 - 36 counties now have at least one, including 5 that had none.
 - 20 of those counties are rural, medically underserved or partially.

Critical access for life-threatening head injuries!

THIRTY-THREE RURAL TEXAS COUNTIES SEE GAINS IN ER DOCS

Thirty-three rural Texas counties have added at least one emergency medicine physician since the passage of Proposition 12 five years ago, including 24 counties that previously had none.

Those counties are listed below:



In all, 76 Texas counties have seen a net gain in emergency medicine physicians since the passage of Proposition 12 five years ago, including 39 medically underserved counties and 30 counties that are partially medically underserved.

County	Location	Number of New ER Docs
1. Anderson	East Texas	2
2. Blanco	Central Texas	1
3. Brewster	West Texas (along Mexico border)	1
4. Burnet	Central Texas	2
5. Camp	East Texas	1
6. Colorado	Southeast Texas	1
7. Concho	West Central Texas	1
8. Cooke	North Texas (Oklahoma border)	2
9. Deaf Smith	Panhandle (along New Mexico border)	1
10. Eastland	Northwest Texas	1
11. Fayette	Southeast Texas	3
12. Franklin	East Texas	1
13. Freestone	East Texas	1
14. Grimes	Southeast Texas	2
15. Hood	North Texas	2
16. Hopkins	East Texas	1
17. Hutchinson	Texas Panhandle	1
18. Jasper	East Texas	3
19. Lamar	East Texas (along Oklahoma border)	1
20. Limestone	East Texas	1

County	Location	Number of New ER Docs
21. Llano	Central Texas	2
22. Mills	Central Texas	1
23. Montague	North Texas (along Oklahoma border)	1
24. Nacogdoches	East Texas	4
25. Panola	East Texas (along Louisiana border)	1
26. Polk	East Texas	1
27. Scurry	West Texas	1
28. Titus	East Texas	2
29. Val Verde	South Texas (along Mexico border)	2
30. Walker	East Texas	3
31. Washington	Southeast Texas	3
32. Wheeler	Panhandle (along Oklahoma border)	1
33. Wood	East Texas	1

Source: Office of Rural Community Affairs
Texas Department of State Health Services
Texas Medical Board
Texas Alliance For Patient Access

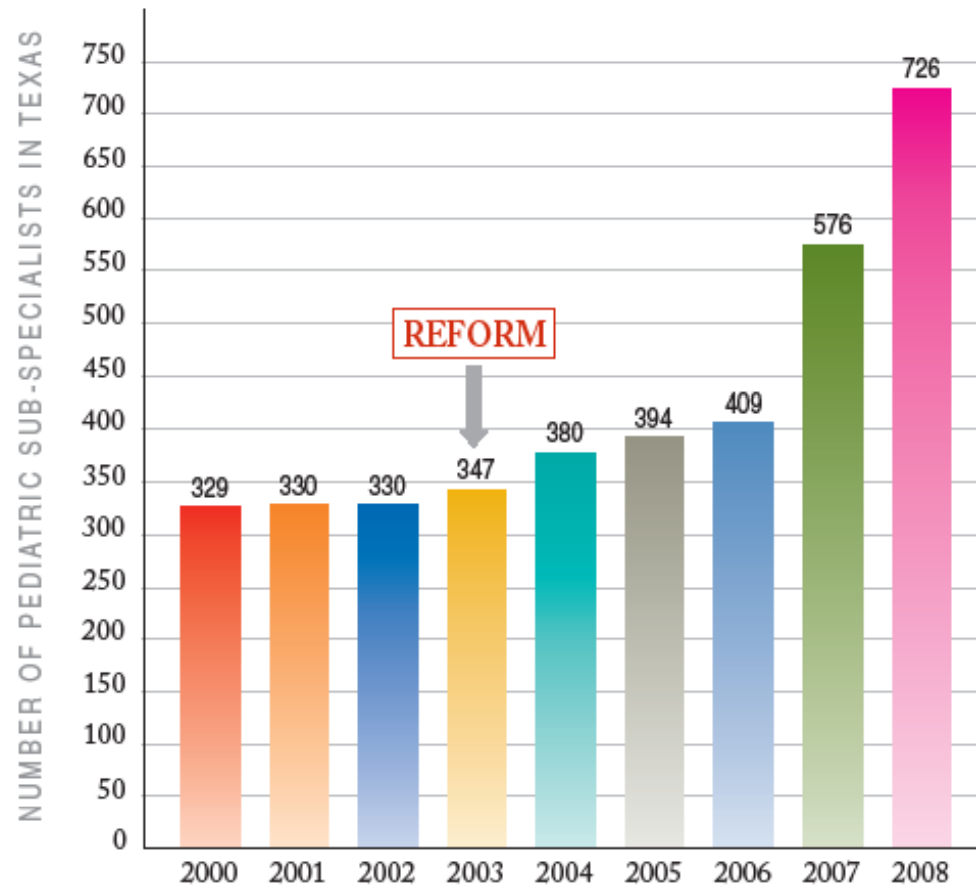
Pediatric specialists and Geriatrician gains

- No change in 2 years before reform.
- Since reform the number of pediatric specialists has doubled in 5 years.
- Geriatricians have shown similar gains.

Our children and parents have more access to care!

PEDIATRIC SUB-SPECIALISTS IN TEXAS (2000 - 2008)

Numbers include those self-described as pediatric anesthesiologist, pediatric allergy specialist, pediatric allergy and immunologist, pediatric cardiologist, pediatric cardiothoracic surgeon, pediatric critical care medicine specialist, pediatric dermatologist, pediatric emergency medicine specialist, pediatric endocrinologist, pediatric gastroenterologist, pediatric hematologist/oncologist, pediatric infectious disease specialist, pediatric intensive care specialist, pediatric nephrologist, pediatric neurologist, pediatric ophthalmologist, pediatric orthopedist, pediatric otolaryngologist, pediatric pathologist, pediatric psychiatrist, pediatric pulmonologist, pediatric radiologist, pediatric rehabilitation medicine specialist, pediatric rheumatologist, pediatric neurosurgeon, or pediatric urologist.
In-state physicians only



Source: Texas Medical Board

Principles of Reform

- Meaningful – improve access to care
- Measurable – physicians who provide high risk coverage
- Sustainable – withstand constitutional challenges

Failures of Reform

- Exceptions and indexing
- Per claimant vs. per defendant
- Unconstitutional
- Neglecting court reform

Mahalo

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