

# Tort reform reduces lawsuit risk; establishes framework for quality improvements

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It is well known that rising medical malpractice premiums have reached a crisis point in many areas of the United States, and the economic and emotional costs of these claims are driving physicians and surgeons away from high-risk specialties. However, according to the authors of a study published in the April issue of the *Journal of the American College of Surgeons*, implementation of comprehensive tort reform has been associated with a nearly 80 percent decrease in the prevalence of surgical malpractice lawsuits at one academic medical center. This decrease in lawsuits also resulted in a significant decrease in malpractice-associated costs.

As a part of comprehensive tort reform in 2003, Texas Proposition 12 placed a \$750,000 cap on non-economic damages in [medical malpractice](#) lawsuits, and limited an individual physician's liability to \$250,000. Researchers at the University of Texas Health Science Center at San Antonio conducted the study, which was based on data extracted from two hospital databases. They reviewed malpractice suit prevalence and associated costs, spanning an 18-year period from 1992-2010.

During this timeframe, surgeons performed 98,513 surgical procedures. Out of this cohort, [surgical patients](#) filed 28 lawsuits. The great majority of the suits (25) were filed between 1992-2003 (the pre-reform period). About half of these cases (13) were decided in favor of the plaintiff, and the remainder (12) in favor of the surgeon. The liability cost of the lawsuits was \$5.56 million, and the legal fees were \$1.6 million for a total litigation cost of \$7.16 million. The annualized cost was almost

\$600,000 per year. Since 2004 (the post-reform period), three surgical-related lawsuits have been filed. The total legal cost for these cases was \$3,345, or an annualized cost of about \$500 per year.

The prevalence of surgical malpractice lawsuits significantly decreased following tort reform. During the pre-reform period, malpractice suit prevalence was 40/100,000 operations. After tort reform, it dropped to 8/100,000 for a relative reduction of almost 80 percent (risk reduction 0.21).

Tort reform legislation also significantly reduced legal costs and malpractice insurance premiums for individual surgeons. In 2002, malpractice insurance premiums were \$10,000 per surgeon. By 2010, the premium had dropped to \$2,700, and it is projected to be \$2,000 per surgeon next year.

"Implementation of comprehensive tort reform in Texas was associated with almost a five-fold decrease in the risk of a [malpractice lawsuits](#) being filed," said the study's lead author, Ronald M. Stewart, MD, FACS, professor and chair of the surgery department at the University of Texas Health Science Center at San Antonio. "Medical [malpractice](#) tort reform is beneficial for the surgeon and other health care practitioners because of the significant decrease in lawsuits; however, I believe it is also beneficial to patients because of its influence on improved access and quality of care, and decreased costs leading to overall reduced health care costs."

Provided by Weber Shandwick Worldwide

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