

HEALTH CARE SPENDING FOR PATIENTS NOT LAWSUITS

According to the Congressional Budget Office, medical liability reform would save the government \$28 billion over 10 yearsⁱ. 71% of Americans agree that medical liability lawsuits are one of the main factors behind rising health care costs and 78% of Americans are concerned that access to health care may be compromised because of soaring liability premiumsⁱⁱ.

Rising Insurance Premiums

Annual professional liability insurance (PLI) premiums for physicians have continually risen over recent decades, increasing at an average rate of 15% a year. In 2020, during the height of the COVID-19 pandemic, more than 30% of premiums reported on a survey of liability insurers increased from the previous year, the highest percentage since 2005ⁱⁱⁱ. States with more hostile litigation climates have trouble recruiting physicians. Since Texas reformed its medical liability laws in 2003, The Texas Medical Board has licensed record numbers of new physicians in the years post-tort reform and the state has seen a dramatic decrease in frivolous lawsuits^{iv}. Citizens of every state should have the same access to high-quality specialty care.

AAOS Supports:

- **Placing time tested, reasonable limits on non-economic damages, such as the successful reforms in California and Texas.**
- **Protecting physicians who are volunteering their services in a disaster or local or national emergency.**
- **Applying the Federal Tort Claims Act to cases involving services mandated by the Emergency Medical Treatment and Labor Act.**
- **Exploring alternatives, including health courts and early disclosure and compensation offers.**

What Congress Should Do:

Congress should pass H.R. 3021, the Coronavirus Provider Protection Act, which offers liability protection to health care professionals who act in good faith and abide by government guidelines while caring for patients during the COVID-19 pandemic. Importantly, the bill maintains critical protections for patients harmed as a result of gross negligence or misconduct.

Congress should pass H.R. 5239, the Good Samaritan Health Professionals Act of 2021, to protect physicians who are volunteering medical services in officially declared federal or local disaster zones.

The AAOS believes that medical liability reforms will enhance patient-physician communication, improve patient safety and access to high-quality care, reduce defensive medicine and wasteful spending, decrease liability costs, and – most importantly – help compensate negligently injured patients promptly and equitably.

ⁱ “How Do Changes in Medical Malpractice Liability Laws Affect Health Care Spending and the Federal Budget? Working Paper 2019-03.” Congressional Budget Office, 9 Apr. 2019, <https://www.cbo.gov/publication/55104>.

ⁱⁱ Reforming the Medical Professional Liability Insurance System.
https://www.acponline.org/acp_policy/policies/reforming_prof_liability_insurance_2003.pdf.

ⁱⁱⁱ “AMA Issues Analysis of Medical Liability Insurance Premiums.” American Medical Association, 29 Mar. 2021, <https://www.ama-assn.org/press-center/press-releases/ama-issues-analysis-medical-liability-insurance-premiums>.

^{iv} “Coming of Age: Celebrating 15 Years of Texas Tort Reform by Joey Berlin Texas Medicine September 2018.” Texmed, <https://www.texmed.org/Template.aspx?id=48427>.