

# RESTRICTING PATIENT RIGHTS DOES NOT LOWER HEALTH COSTS Spending Increases Faster in Texas



It has been widely reported that costs associated with medical liability account for only about 1.0 – 1.5% of overall health care expenses.<sup>1</sup> This amounts to a rounding error in the overall effort to reduce health care costs and ensure that coverage is available.

**Rather than accruing significant cost savings to the health care system, Texas has seen Medicare spending increase faster than the national average in the three years following passage of so-called tort “reform.” This is exemplified by the experience in McAllen.<sup>2</sup>**

The chart at right shows that the average rate of growth in Medicare spending per enrollee in the three years before patients lost their rights was 3.80% in Texas compared to 3.36% for the national average. In the three years following so-called tort “reform,” average Medicare spending increased 7.43% in Texas compared to 6.03% for the national average.<sup>3</sup>

	TEXAS Inflation- adjusted total Medicare spending per enrollee	TEXAS Annual Rate of Increase	NATIONAL Inflation- adjusted total Medicare spending per enrollee	NATIONAL Annual Rate of Increase
2000	\$ 6,769.96		\$ 6,316.83	
2001	\$ 6,632.24	-2.03%	\$ 6,294.13	-0.36%
2002	\$ 7,004.75	5.62%	\$ 6,608.36	4.99%
2003	\$ 7,552.11	7.81%	\$ 6,968.29	5.45%
<b>Average</b>		<b>3.80%</b>		<b>3.36%</b>
2004	\$ 8,188.54	8.43%	\$ 7,520.15	7.92%
2005	\$ 8,860.16	8.20%	\$ 8,020.69	6.66%
2006	\$ 9,360.59	5.65%	\$ 8,303.75	3.53%
<b>Average</b>		<b>7.43%</b>		<b>6.03%</b>
<b>Growth 01-03 to 04-06</b>		<b>95.47%</b>		<b>79.62%</b>

Source: The Dartmouth Atlas of Health Care  
(<http://www.dartmouthatlas.org/index.shtm>)

**Texas Medicare costs have increased more rapidly than the national average. In fact, Texas has seen an average growth rate that is 16% higher than the national average since Texas severely restricted patient legal rights.** If the medical industry mantra that the threat of litigation drives up costs due to so-called “defensive medicine,” why are Texas Medicare expenditures spiraling higher than the national average after the threat of litigation was essentially taken away in 2003? In fact, 10 of the 15 health markets with the highest Medicare spending per enrollee are in states in which the medical and insurance industries successfully lobbied for severe limits on patients’ rights.<sup>4</sup>

Medical facilities are undoubtedly enjoying significant cost savings because patients who are harmed through medical negligence have had their rights severely restricted. Are these resources being used on unnecessary capitol expenses designed to drive up system utilization, increasing – not decreasing – overall health system costs?

<sup>1</sup> See: <http://prescriptions.blogs.nytimes.com/2009/08/31/would-tort-reform-lower-health-care-costs/>

<sup>2</sup> See: [http://www.newyorker.com/reporting/2009/06/01/090601fa\\_fact\\_gawande](http://www.newyorker.com/reporting/2009/06/01/090601fa_fact_gawande)

<sup>3</sup> The Dartmouth Atlas of Health Care; <http://www.dartmouthatlas.org/index.shtm>

<sup>4</sup> *Id.* Among the 10 most expensive markets, 4 are in Texas (Corpus Christi, Dallas, Harlingen, McAllen)

**For more information, contact Texas Watch at 512-381-1111.**