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Academic Study of 15 Years of Texas Medical Malpractice Claims Finds Stable Claim Rates, Payouts, and Jury Verdicts, Despite Dramatic Increases in Insurance Premiums

AUSTIN, TX. – Recent spikes in medical malpractice premiums in Texas were **not** caused by rising payouts on claims or rising jury verdicts. Using a unique, comprehensive dataset maintained by the Texas Department of Insurance that includes all insured closed medical malpractice claims for 1988-2002, researchers from three major universities found that, adjusted for general inflation and population, claim rates, payments, total costs, and jury verdicts were all stable. Their findings, with these adjustments, are as follows.

- The number of large paid claims (>\$25,000 in 1988 dollars) per year was roughly constant. The number of small paid claims (<\$25,000 in 1988 dollars) declined sharply.
- Mean and median payouts per large paid claim were \$528,000 and \$200,000, respectively, in 2002 and were roughly constant over time.
- Roughly 6% of large paid claims involved payouts over \$1 million, with little time trend in this percentage.
- In 2000-2002, there was an average of 4.6 paid claims per 100 practicing Texas physicians per year, down from 6.4 paid claims per 100 practicing physicians per year in 1990-1992.
- The total number of closed claim files averaged 25 per 100 practicing Texas physicians per year in 2000-2002. Of these, about 80% involved no payout.
- In 2002, payouts to patients were about \$515 million, while Texas health care spending was about \$93 billion, so payouts on insured claims equaled 0.6% of health care spending.
- Mean and median jury verdicts in trials won by patients were \$889,951 and \$300,593, respectively, in 2002 and showed no significant time trend.
- The sum of payouts and defense cost rose by about 1% per year. Defense costs, which grew 4.4% annually, drove this increase.

Because litigation outcomes were stable, other forces must account for the steep med mal insurance premium increases seen after 1998, most likely insurance market dynamics.

Stability, Not Crisis: Medical Malpractice Claim Outcomes In Texas, 1988-2002 will appear in the July, 2005 issue of the *Journal of Empirical Legal Studies*, a peer-reviewed journal. To download a copy, visit <http://ssrn.com/abstract=678601>. For additional information visit <http://www.utexas.edu/law/academics/centers/clcjm/>. The study's authors are Professors Bernard Black and Charles Silver (University of Texas); Dr. David Hyman (University of Illinois); and Dr. William Sage (Columbia University). Its sponsors are the Center on Lawyers, Civil Justice, and the Media at University of Texas School of Law, and the Jon David and Elizabeth Epstein Program in Health Law and Policy at the University of Illinois College of Law.

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