

# A Failed Experiment

## **Health Care in Texas Has Worsened in Key Respects Since State Instituted Liability Caps in 2003**

October 2011



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## **Acknowledgments**

This report was written by Taylor Lincoln, Research Director of Public Citizen's Congress Watch division.

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## Introduction

A common perception among policymakers and pundits is that medical malpractice litigation is significantly, or even chiefly, to blame for our country's skyrocketing health care costs and steadily diminishing access to care.

For example, current House Speaker John Boehner (R-Ohio) said during President Obama's 2009 health care summit that "medical malpractice and the defensive medicine that doctors practice" is the "biggest cost driver" in all of medicine.<sup>1</sup>

Those who blame malpractice litigation for the broken economics of our health care system typically tout laws limiting physicians' liability as the answer. One of their main exhibits is the experience of the state of Texas, which in 2003 imposed a \$250,000 cap on the amount of non-economic damages patients could recover from doctors and shielded emergency room doctors from liability except in cases of "wilful and wanton" acts of negligence.<sup>2</sup>

Rep. Michele Bachmann (R-Minn.), for instance, said during the national debate over health insurance reform that projects to study medical liability were unnecessary because "we've already had a pilot program. It's called the state of Texas. The state of Texas did a wonderful job of lawsuit reform and actually saw medical costs come down. We know it works."<sup>3</sup>

Rep. Lamar Smith (R-Texas), a co-sponsor of legislation now pending in Congress to impose federal caps on medical malpractice awards, credited the Texas liability caps with increasing the number of doctors in the state, which, he said, "means Texans pay less to have better health care and more options."<sup>4</sup>

Texas Gov. Rick Perry (R) pushed for the 2003 legislation to cap awards and for a constitutional amendment to block the courts from overturning it. He likened a vote in favor of the ballot initiative for the constitutional amendment, which narrowly passed, to a

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<sup>1</sup> Rep. Boehner's comments during televised summit to debate health care legislation, Feb. 25, 2010. Available at <http://bit.ly/qe9R6D>.

<sup>2</sup> Tex cp. Code ann. § 74.153. Available at <http://bit.ly/nG11cF> and Texas cp. Code Ann. § 74.301. Available at <http://bit.ly/pG04qg>.

<sup>3</sup> Rep. Michele Bachmann's comments at Value Voters Summit, Washington, D.C., Sept. 18, 2009. Available at <http://cs.pn/p5iXXS>.

<sup>4</sup> Rep. Lamar Smith, "Tort Reform Key to Cutting Soaring Healthcare Costs," *The Hill*, March 19, 2010. Available at <http://bit.ly/nHxcWk>.

“vote for your doctors and for affordable health care.”<sup>5</sup> Since then, Perry has consistently claimed that the Texas liability caps have led to a massive influx of doctors into the state.<sup>6</sup>

The data tell a far different story. While litigation over malpractice in Texas has plummeted dramatically since the caps were imposed, residents of Texas (except for people with financial connections to liability insurance companies and, to a lesser extent, doctors) have realized few, if any, benefits. Instead, the health care picture in Texas has worsened significantly by almost any measure.

Since Texas instituted its liability limits in 2003:

- Medicare spending in Texas has risen far faster than the national average. Per-enrollee spending for Medicare’s two main programs ranked second-highest in Texas among the 50 states in 2009. In 2003, Texas ranked seventh. In light of the steep reduction in litigation that has occurred in Texas since 2003, these figures contradict the theory that medical malpractice litigation is driving health care costs.
- Medicare spending specifically for outpatient services in Texas has risen even more steeply compared to national averages.
- Premiums for private health insurance in Texas have risen faster than the national average.
- The percentage of Texans who lack health insurance has risen, solidifying the state’s dubious distinction of having the highest uninsured rate in the country.
- The *per capita* increase in the number of doctors practicing in Texas has been far slower than in the preceding years.
- The *per capita* number of primary care physicians practicing in Texas has remained flat, compared to a sharp increase in the years leading up to the caps.
- The prevalence of physicians in non-metropolitan areas has declined.

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<sup>5</sup> Lee Hockstader, “Texans Vote on Limiting Malpractice Payments; Change to Constitution Would Apply Broadly,” *Washington Post*, Sept. 13, 2003.

<sup>6</sup> See, e.g., Web site of Gov. Rick Perry, “Governing Principle.” Available at <http://bit.ly/nUtv52> and “Rick Perry Says Texas Added 21,000 Doctors Because of Tort Reform,” Politifact.com, Aug. 25, 2011. Available at <http://bit.ly/rs2Hx4>.

Two groups have benefited greatly from the restrictions: medical liability insurance companies and physicians.

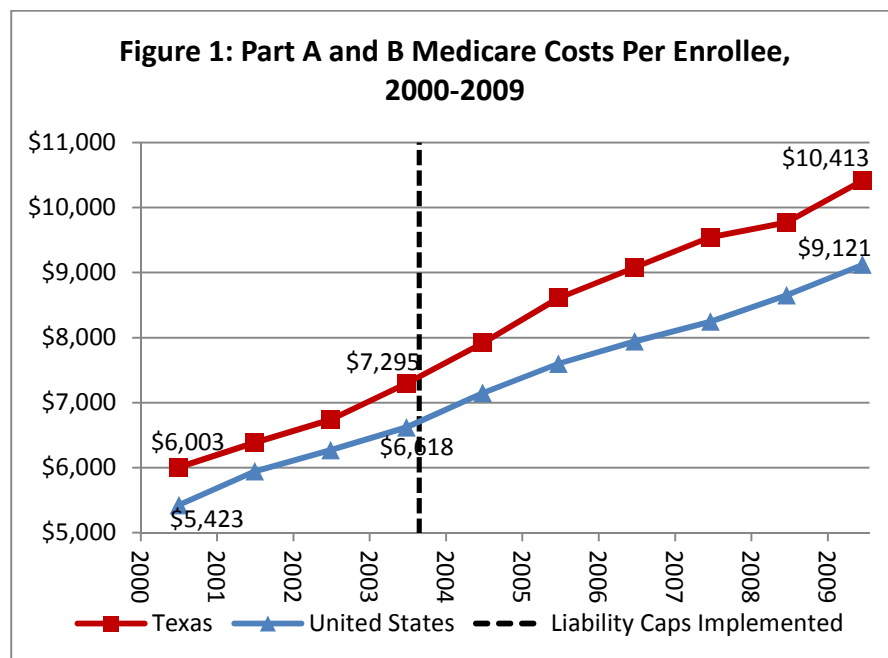
- The state's largest provider of medical liability insurance advertises that doctors' premiums (including rebates) were 50.5 percent lower in 2010 than in 2003. But the malpractice payments that insurance companies are required to make have fallen far faster. This suggests that insurance companies have reaped a windfall from the liability caps because the amount they pay out has decreased considerably more rapidly than the amount they take in.
- Payments on behalf of Texas doctors for malpractice were 64.8 percent lower in 2010 than in 2003. Adjusting for inflation and population growth, payments fell by 74.1 percent.

But the benefits realized by these two groups have not translated into savings for regular Texans or for the taxpayers who fund Medicare, as the spending data summarized above indicate.

## I. Medicare Costs in Texas Have Far Outpaced the National Average Since the State Imposed Liability Limits.

Medicare spending in Texas has long exceeded that of the country as a whole. But the discrepancy has grown since the state imposed liability caps. Since 2003, the combined amount Medicare pays per enrollee for Medicare Part A (inpatient services) and Medicare Part B (which consists primarily of outpatient services) in Texas has increased by 42.7 percent.<sup>7</sup> Nationally, the increase has been 37.8 percent.<sup>8</sup> See Figure 1.

Thus, taxpayers' spending on Medicare's two main programs has increased 13 percent faster for services rendered in Texas than for the rest of the country since Texas implemented its caps. Per-enrollee payments for Medicare Part A and Medicare B combined were 14.2 percent higher in Texas than for the nation as a whole in 2009 compared to being 10.2 percent higher in 2003. Per-enrollee Medicare spending in Texas ranked second-highest among the 50 states in 2009. In 2003, Texas ranked seventh.<sup>9</sup>



Source: Centers for Medicare and Medicaid Services, "Program Payments for Medicare Beneficiaries Residing in Urban and Rural Areas, by Area of Residence."

<sup>7</sup> The Texas liability caps took effect on Sept. 1, 2003. For this report, 2003 is treated as the last "pre-caps" year.

<sup>8</sup> Centers for Medicare and Medicaid Services, "Program Payments for Medicare Beneficiaries Residing in Urban and Rural Areas, by Area of Residence." Table found within Medicare and Medicaid Statistical Supplement. Available at <http://go.cms.gov/rkzIF8>.

<sup>9</sup> *Ibid.* Per-enrollee Medicare Part A and Part B spending in the District of Columbia was higher than in Texas in both years. This is not surprising because Washington, D.C., is entirely urban and urban care tends to cost more. If Washington, D.C., were counted as a state, Texas would have ranked eighth in 2003 and third in 2009.

The discrepancy becomes even more pronounced if one examines spending only for Medicare Part B, for which doctors are generally paid according to the volume of services provided.

Those who blame medical malpractice litigation for rising health care costs and diminished access to care tend to focus on the theory that the fear of litigation motivates doctors to prescribe unnecessary tests and procedures to insulate themselves against potential lawsuits. This is the crux of the defensive medicine argument.

Because Medicare Part B spending is sensitive to the volume of services, a jurisdiction experiencing a dramatic decrease in litigation should realize a decline in the rate of growth in Medicare Part B spending—or even an outright decline in such spending—if the defensive medicine argument is accurate. According to the theory, the reduced litigation should have reduced doctors' fear of being sued, which in turn should have reduced the number of tests and procedures doctors prescribed.

From 2003 until 2007, medical malpractice payments in Texas fell by 61.1 percent.<sup>10</sup> But during these four years, the rate of growth for Medicare Part B spending in Texas was far more than double the rate over the preceding four years. Further, spending rose at a far faster pace than the national average. (The data cited here are from the Dartmouth Atlas, a service that tracks Medicare spending. The most recent year for which the Dartmouth Atlas provides Medicare Part B data is 2007.)

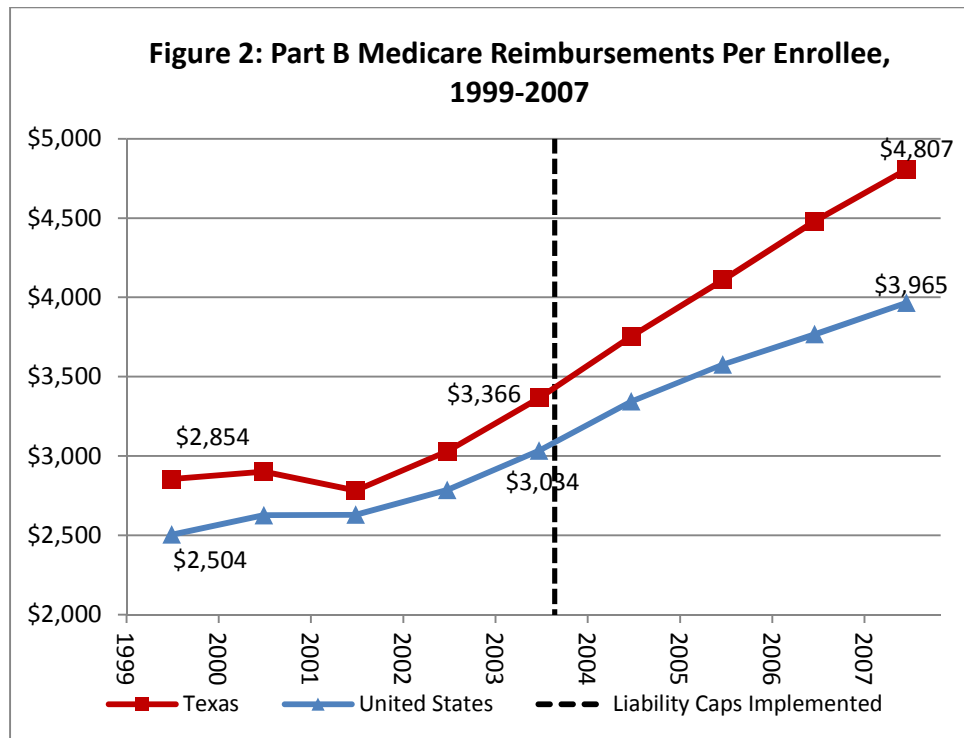
In the four years preceding the enactment of the Texas caps, per-enrollee Medicare Part B spending in Texas increased by 17.9 percent, slightly lower than the 21.2 percent national average. In the first four years after the caps took effect, Part B spending in Texas increased by 42.8 percent, a growth rate 2.4 times faster than that of the four preceding years. Part B spending for the nation as a whole increased 30.7 percent in these four years. Thus, spending for Medicare Part B in the four years after the caps were implemented increased nearly 40 percent faster in Texas than for the nation as a whole.<sup>11</sup> See Figure 2.

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<sup>10</sup> Elsewhere in this report, the decline in malpractice payments is pegged to the 2003 to 2010 time frame; for the purpose of the example in this section, data from 2003 to 2007 is cited.

<sup>11</sup> The Dartmouth Atlas of Health Care, Continuous Medicare History Survey. CMHS-based (5% sample): Age, sex and race-adjusted. Available at <http://bit.ly/nzfEGp>.



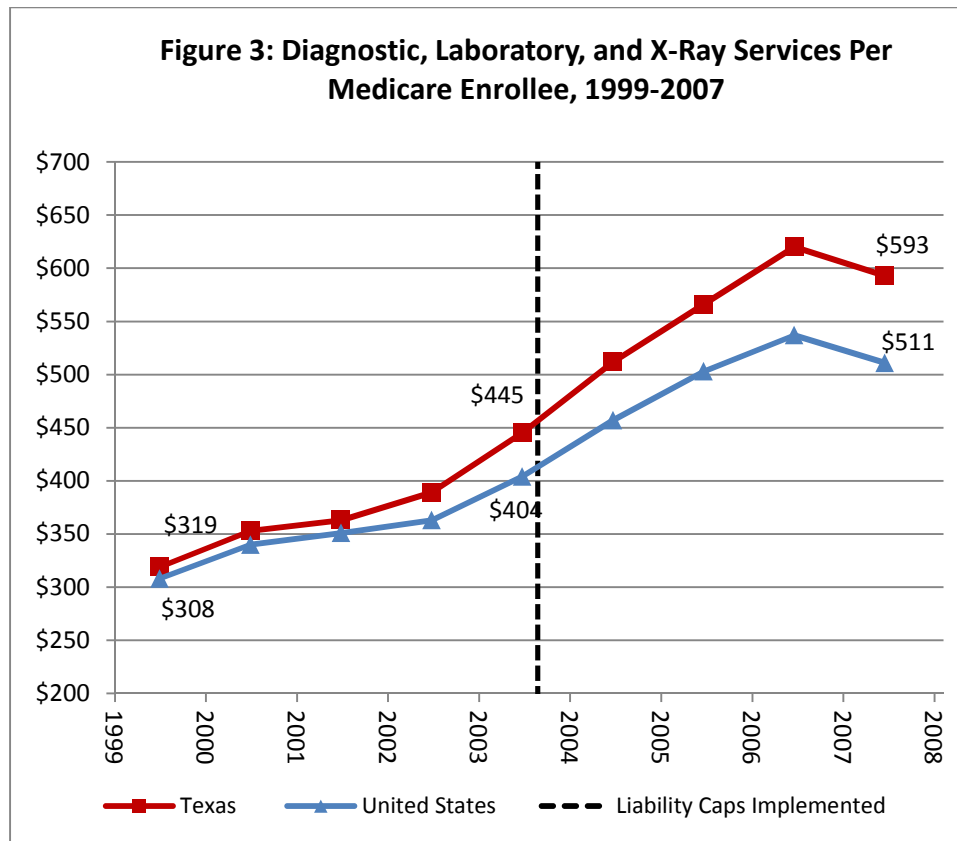


Source: The Dartmouth Atlas of Health Care, Continuous Medicare History Survey.

Adherents of the defensive medicine theory focus on diagnostic tests as examples of unnecessary care that they allege is rendered because of fear of litigation. If this is true, the steep reduction in medical malpractice payments in Texas between 2003 until 2007 should have been accompanied by a reduction in diagnostic testing.

In fact, Medicare diagnostic testing expenditures in Texas not only increased during this time frame, but rose 25.6 percent faster than the national average. See Figure 3. Note: The declines in diagnostic testing costs both in Texas and nationally in 2007 occurred because of changes in the Medicare fee schedule called for in the Deficit Reduction Act of 2005.<sup>12</sup>

<sup>12</sup> See, e.g., "Government Accountability Office, "Medicare Part B Imaging Services: Rapid Spending Growth and Shift to Physician Offices Indicate Need for CMS to Consider Additional Management Practices," June 2008, p. 3. Available at <http://1.usa.gov/q6nZN2>.



Source: The Dartmouth Atlas of Health Care, Continuous Medicare History Survey.

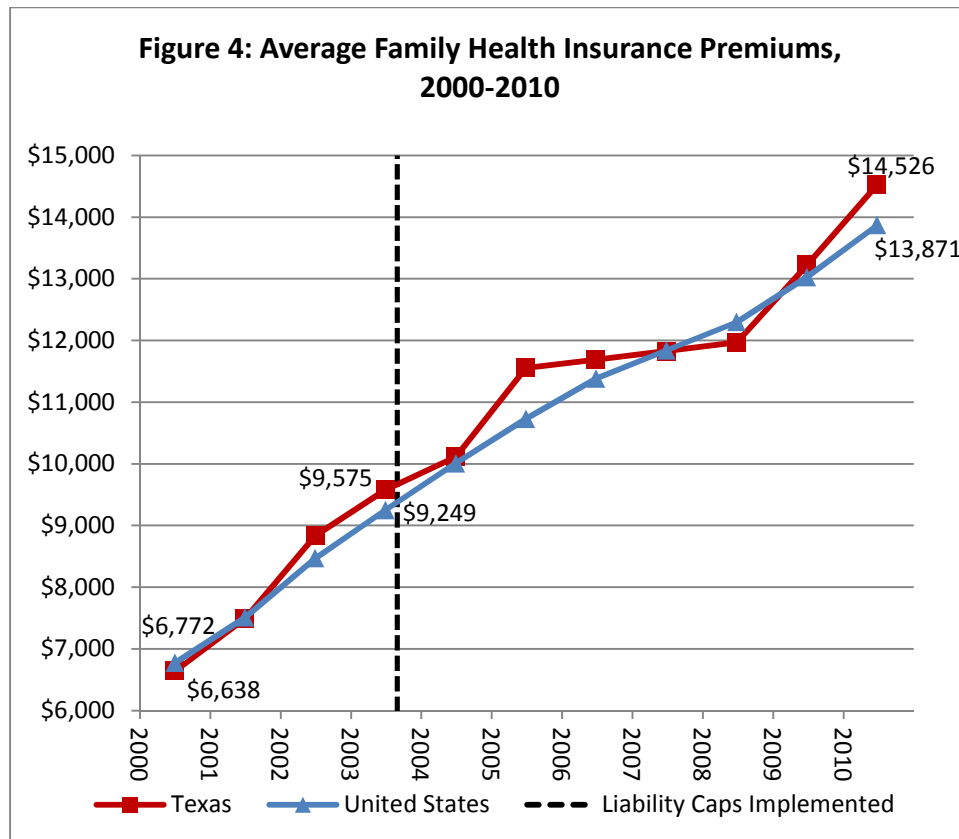
## II. Health Insurance Premiums in Texas Have Risen Faster than the National Average Since the State Imposed Liability Limits.

If medical malpractice litigation were truly to blame for rising health care costs, health insurance costs should decrease—or at least grow much more slowly—in a state in which litigation has dropped dramatically. Yet, Texas has enjoyed no such dividend.

Although health insurance costs in Texas have not outpaced national rates as dramatically as have Medicare expenditures in the state, they have risen faster than the national average since the caps were imposed.

Family health insurance premiums in Texas rose by 51.7 percent between 2003 and 2010. Nationally, they rose by 50 percent.<sup>13</sup> Since 2004, health insurance premiums in Texas have risen 13.1 percent faster in Texas than nationally. See Figure 4.

<sup>13</sup> Agency for Health Research and Quality (AHRQ), Medical Expenditure Panel Survey. Available at <http://bit.ly/rcODow>.



Source: Agency for Health Research and Quality (AHRQ), Medical Expenditure Panel Survey. Note: Data are not available for 2007; the figure used here is the midpoint between 2006 and 2008.

### III. Percentage of Uninsured in Texas Has Risen Since Imposition of Caps.

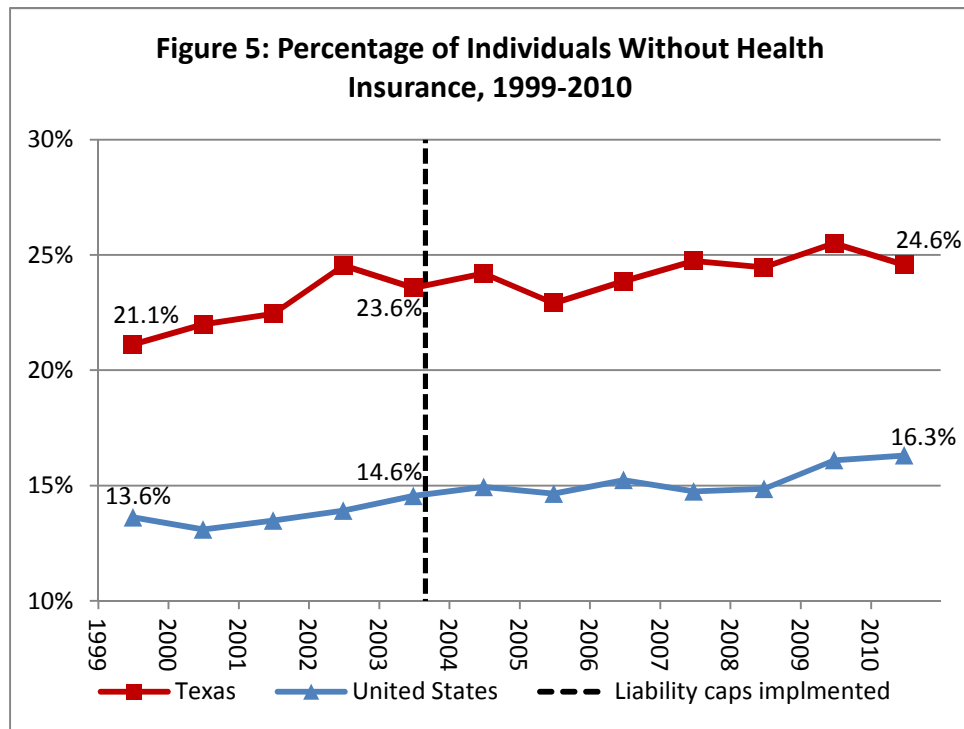
While campaigning for a ballot initiative that would amend the state constitution to permit caps on medical malpractice damages, Gov. Perry promised that the measure would ensure “affordable health care” in the state.<sup>14</sup> If true, one might expect an increase in the number of Texans able to obtain health insurance since the caps were implemented.

But this has not happened. Texas already had the highest percentage of uninsured residents in the nation before it imposed liability caps. Since then, its rate of uninsured has risen. In 2003, 23.6 percent of Texans lacked health insurance, either through employer-sponsored plans, privately purchased plans, or public plans. By 2010, the rate of uninsured in Texas grew to 24.6 percent, according the U.S. Census.<sup>15</sup> See Figure 5.

<sup>14</sup> Lee Hockstader, “Texans Vote on Limiting Malpractice Payments; Change to Constitution Would Apply Broadly,” *Washington Post*, Sept. 13, 2003.

<sup>15</sup> U.S. Census Bureau, Health Insurance Coverage Status and Type of Coverage by State—All Persons: 1999 to 2010. Available at <http://1.usa.gov/p1n90j>.

According to a recent Gallup poll (separate from the U.S. Census data), Texas's trends are worsening. Gallup found the rate of uninsured in Texas to be 27.8 percent through mid-2011 compared to a national average of 16.8 percent.<sup>16</sup> The same poll found that 26.9 percent of Texans lacked health insurance through mid-2009, compared to a national average of 16.2 percent.<sup>17</sup>



Source: U.S. Census Bureau, Health Insurance Coverage Status and Type of Coverage by State—All Persons: 1999 to 2010.

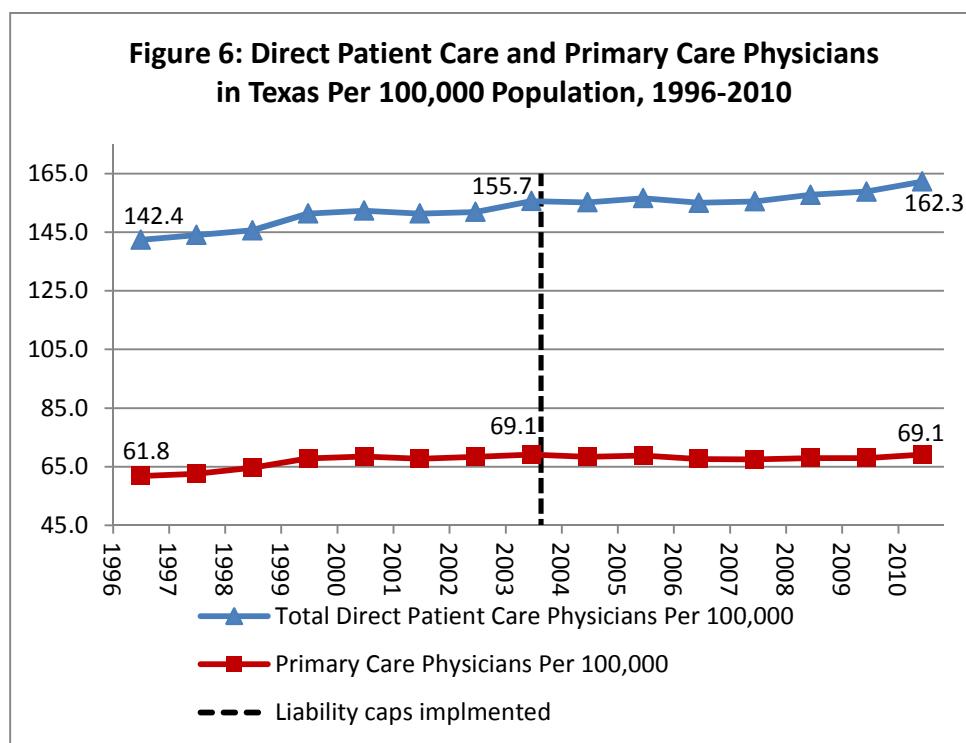
<sup>16</sup> Elizabeth Mendes, “Uninsured: Highest Percentage in Texas, Lowest in Mass., Gallup, Aug. 19, 2009. Available at <http://bit.ly/rnTRrc>.

<sup>17</sup> Elizabeth Mendes, “Texas and Mass. Still at Health Coverage Extremes in U.S.,” Gallup, Sept. 6, 2011. Available at <http://bit.ly/pM9VUf>.

#### IV. Growth in Number of Texas Physicians Has Slowed Since Imposition of Caps.

The most consistent argument of those claiming beneficial effects from Texas's liability caps is that they have led to an influx of doctors, especially in underserved areas.<sup>18</sup>

But in relation to the state's rising population, Texas's physician population has not increased markedly. Moreover, the increases to the doctor population that have occurred since the imposition of caps have been far slower than those in the preceding years. In the seven years before the caps took effect, the *per capita* number of doctors increased by 9.3 percent, according to data provided by the Texas Department of State Health Services. In the seven ensuing years, the increase was only 4.2 percent. See Figure 6



Source: Texas Department of State Health Services. Direct care physicians are those who work directly with patients, and do not include researchers, administrators, or teachers. Primary care physicians are those who indicate that they have a primary specialty of general practice, family practice/medicine, internal medicine, pediatrics, obstetrics and/or gynecology, or geriatrics, and are a subset of direct patient care physicians.

Texas's record of attracting primary care physicians since 2003 is even less impressive. The state's *per capita* population of primary care physicians increased by 11.8 percent in the seven years leading up to the caps. Since then, the growth rate has plateaued. See Figure 6.

<sup>18</sup> See, e.g., Web site of Texas Gov. Rick Perry, "Medical Liability Reform." Available at <http://bit.ly/qKQgp1>.

Gov. Perry credits Texas's liability caps with increasing the state's number of doctors by 21,000.<sup>19</sup> Politifact.com, the Pulitzer Prize-winning journalistic service that evaluates the accuracy of politicians' claims, studied Texas Medical Board data (which is separate from the Texas Department of State Health Services data that is cited above) and found both Perry's statistics and his reasoning wanting.

For starters, Politifact concluded, the increase in doctors in Texas since the limits were imposed has been only 13,000, and Politifact was not willing to credit many of those additions to the liability law. "By far, the biggest driver is population growth. From 2002 to 2010, the population of Texas grew by 20 percent. At the same time, the number of doctors went up 24 percent," Politifact wrote.<sup>20</sup>

"But the case for Perry's statement gets even shakier when you review numbers prior to the new malpractice rules," the Politifact assessment continued. "It turns out that in the nine years before tort reform, the number of doctors grew twice as fast as the population. So Texas did a pretty good job attracting doctors before the law changed."<sup>21</sup>

Politifact's verdict: "Texas has only about 13,000 more doctors in the state and the historic trends suggest that population growth was the driving factor. We rate [Perry's] statement False."<sup>22</sup>

Perry also has claimed that liability reform "has brought critically needed doctors back to traditionally underserved portions of Texas."<sup>23</sup> The data generally do not support this claim either. The number of doctors practicing in rural areas increased 23.9 percent in the seven years before the caps were implemented. Since then, their ranks have decreased by about 1 percent. See Figure 7.

Politifact deemed Perry's claim that the number of emergency room doctors has increased since the caps to be true but found the governor's claim of increased ob-gyn specialists "murkier," because counties' success in attracting an ob-gyn had "flipped back and forth" since the caps.<sup>24</sup>

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<sup>19</sup> See, e.g., "Rick Perry Says Texas Added 21,000 Doctors Because of Tort Reform," Politifact.com, Aug. 25, 2011. Available at <http://bit.ly/rs2Hx4>. See also, Web site of Texas Gov. Rick Perry, "Medical Liability Reform." Available at <http://bit.ly/qKQgp1>.

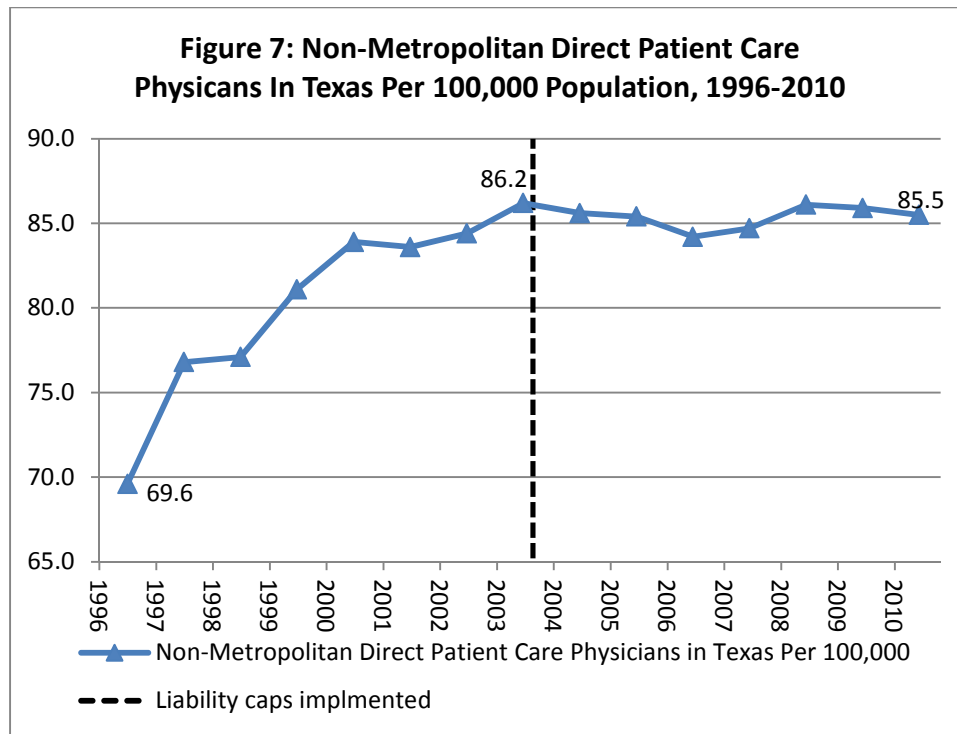
<sup>20</sup> "Rick Perry Says Texas Added 21,000 Doctors Because of Tort Reform," Politifact.com, Aug. 25, 2011. Available at <http://bit.ly/rs2Hx4>.

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

<sup>23</sup> Web site of Gov. Rick Perry, "Governing Principle." Available at <http://bit.ly/nUtv52>.

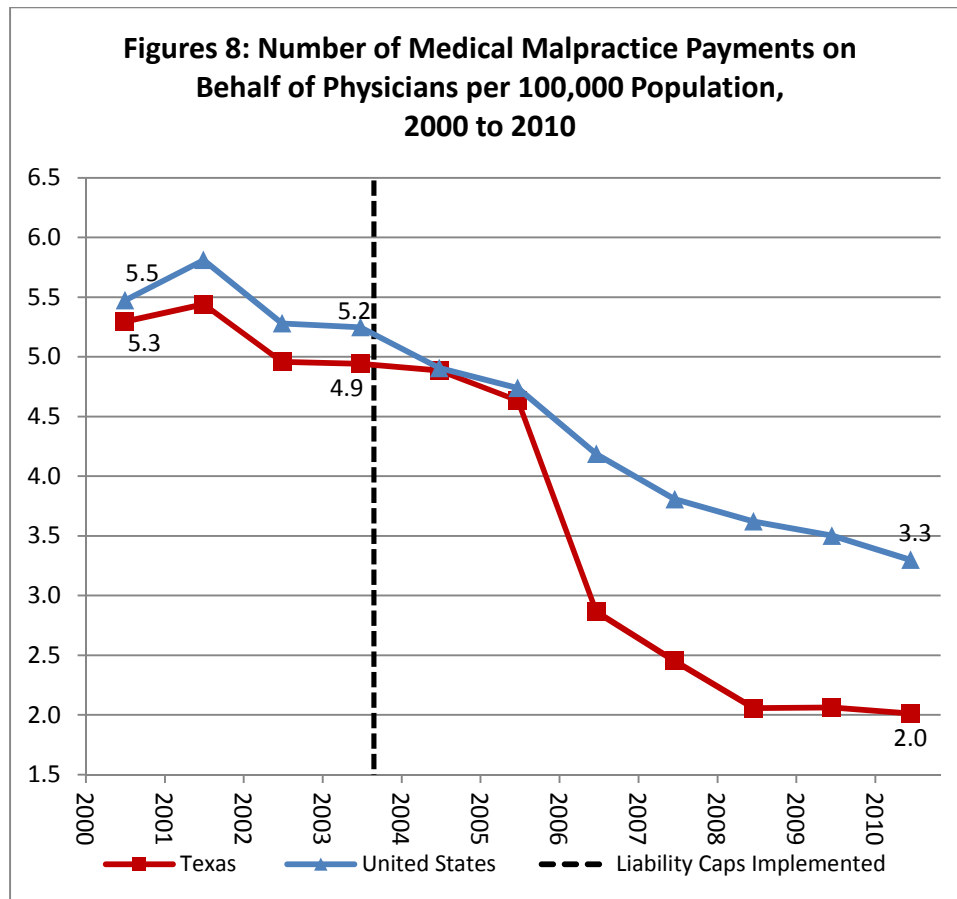
<sup>24</sup> "Rick Perry Says Texas Added 21,000 Doctors Because of Tort Reform," Politifact.com, Aug. 25, 2011. Available at <http://bit.ly/rs2Hx4>.



## V. Texas Doctors Face Dramatically Less Accountability For Errors Since Imposition of Caps.

Liability for medical errors has decreased dramatically since the state imposed caps on damages. On a *per capita* basis, the number of payments to compensate for medical errors in Texas was 59.2 percent lower in 2010 than in 2003, a rate of decline far faster than the national average.<sup>25</sup> See Figure 8.

<sup>25</sup> Public Citizen analysis of National Practitioner Data Bank and Texas Department of State Health Services. Raw data are in Figure 8(b) of Appendix.



Sources: Public Citizen analysis of National Practitioner Data Bank, Department of Texas State Health Services and U.S. Census.

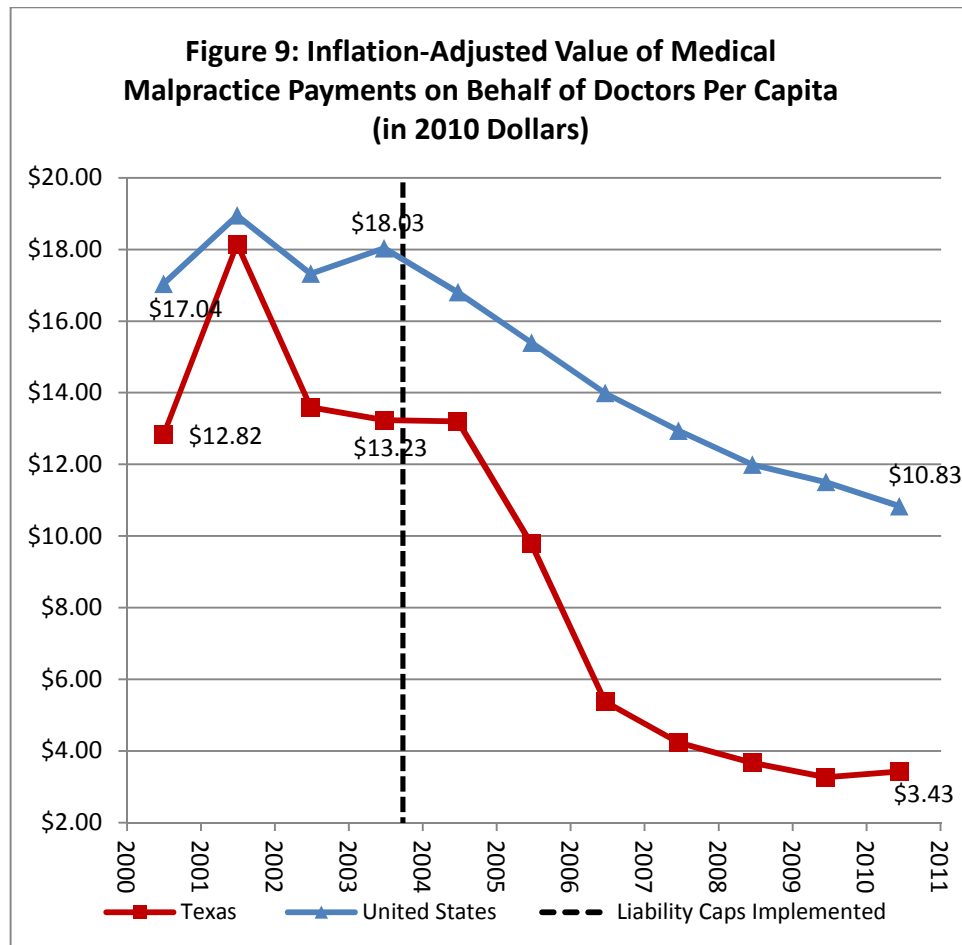
The amount paid on behalf of Texas doctors to compensate for medical errors has fallen even more steeply than the number of payments. In actual dollars, payments in Texas in 2010 were 64.8 percent less than in 2003.<sup>26</sup> In inflation-adjusted dollars, payments have fallen by 74.1 percent on a *per capita* basis.<sup>27</sup> See Figure 9.

The decline makes sense. Caps on non-economic damages make it economically unfeasible for lawyers to bring many cases, such as those involving unemployed or retired patients, for whom no recovery can be made for future earnings.

<sup>26</sup> Public Citizen analysis of National Practitioner Data Bank, Bureau of Labor Statistics (Consumer Price Index) and U.S. Census. Raw data are in Figure 9(b) of Appendix.

<sup>27</sup> *Ibid.*



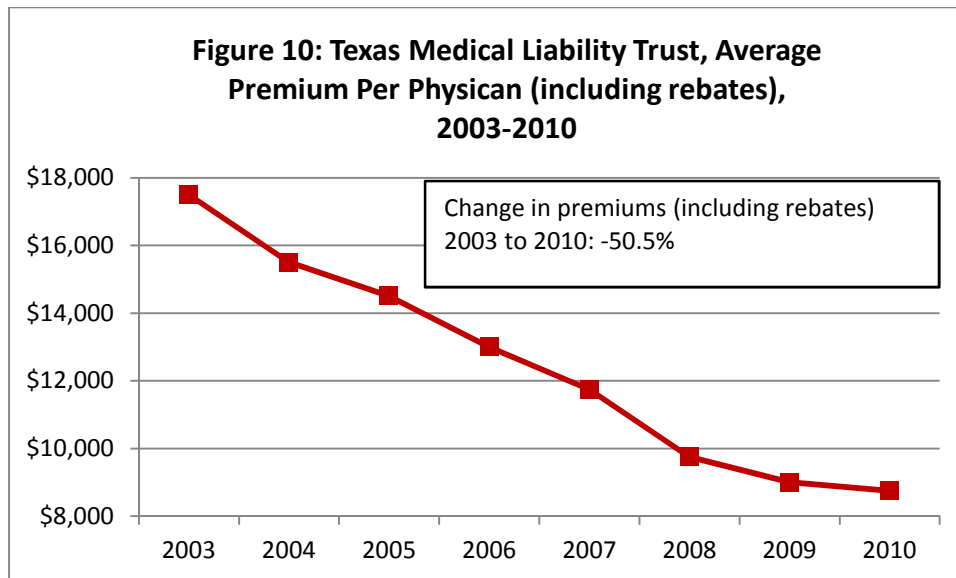


Sources: Public Citizen analysis of National Practitioner Data Bank, Bureau of Labor Statistics (Consumer Price Index) and U.S. Census.

## VI. Liability Insurance Companies Reap Large Windfall from Liability Caps.

The only industry to benefit more than doctors from Texas's liability caps appears to be the state's liability insurance industry. Although the state's largest medical liability insurer, Texas Medical Liability Trust (TMLT), frequently boasts that it has decreased its rates, its rate reductions lag behind the decreases in medical malpractice payments in Texas.

For example, TMLT reports that premiums in 2010 were 50.5 percent lower than in 2003. But statewide payments for medical malpractice damages in 2010 were 65 percent lower in 2010 than in 2003, and have been more than 60 percent lower than 2003 levels in every year since 2007. Thus, liability insurance premiums have fallen less than malpractice payments and at a slower rate. See Figure 10.



Source: Texas Medical Association. Note: The above chart was reproduced based on a chart published on the Web site of the Texas Medical Association and sourced to the Texas Medical Liability Trust (available at <http://bit.ly/rhFu82>). The chart did not include precise data other than its report that premiums fell 50.5 percent over the time span covered. Data points in the reproduction above are rounded to the nearest \$250. The Texas Medical Liability trust refused Public Citizen's request for the data underlying this chart.

## Conclusion

Despite the sales campaign to promote Texas as an exhibit of the merits of limiting doctors' liability for mistakes, the real world data tell the opposite story. Health care in Texas has become more expensive and less accessible since the state's malpractice caps took effect.

The beneficiaries of the new system are the doctors who escape accountability for their errors and the liability insurance companies that reap a windfall of inflated premiums. Regular Texans are the losers. They include not only the victims of medical malpractice who are deprived of the chance to recover damages but also the taxpayers who must foot the bill for the future medical costs of seriously injured patients.<sup>28</sup>

<sup>28</sup> See, e.g., David M. Studdert, *et al.*, "Beyond Dead Reckoning," *Indiana Law Review*, Vol. 33, No. 4, p. 1684. The authors concluded that 53 percent of medical malpractice payments compensated for future health care costs.

## Appendix

**Figure 1: Part A and B Medicare Costs Per Enrollee in Texas, 2000-2009**

Year	Texas	United States
2000	\$6,003	\$5,423
2001	\$6,382	\$5,942
2002	\$6,736	\$6,271
2003	\$7,295	\$6,618
2004	\$7,915	\$7,148
2005	\$8,610	\$7,599
2006	\$9,076	\$7,941
2007	\$9,542	\$8,246
2008	\$9,769	\$8,649
2009	\$10,413	\$9,121

Source: Centers for Medicare and Medicaid Services, "Program Payments for Medicare Beneficiaries Residing in Urban and Rural Areas, by Area of Residence."

**Figure 2: Part B Medicare Reimbursements Per Enrollee, 1999-2007**

Year	Texas	United States
1999	\$2,854	\$2,504
2000	\$2,902	\$2,626
2001	\$2,782	\$2,630
2002	\$3,030	\$2,786
2003	\$3,366	\$3,034
2004	\$3,752	\$3,343
2005	\$4,109	\$3,577
2006	\$4,480	\$3,767
2007	\$4,807	\$3,965

Source: The Dartmouth Atlas of Health Care, Continuous Medicare History Survey.

**Figure 3: Diagnostic, Laboratory, And X-Ray Services Per Medicare Enrollee, 1999-2007**

Year	Texas	United States
1999	\$319	\$308
2000	\$353	\$340
2001	\$363	\$351
2002	\$389	\$363
2003	\$445	\$404
2004	\$512	\$457
2005	\$566	\$503
2006	\$620	\$537
2007	\$593	\$511

Source: The Dartmouth Atlas of Health Care, Continuous Medicare History Survey.

**Figure 4: Average Family Health Insurance Premiums, 2000-2010**

Year	Texas	United States
2000	\$6,638	\$6,772
2001	\$7,486	\$7,508
2002	\$8,837	\$8,469
2003	\$9,575	\$9,249
2004	\$10,110	\$10,006
2005	\$11,553	\$10,728
2006	\$11,690	\$11,381
2008	\$11,967	\$12,298
2009	\$13,221	\$13,027
2010	\$14,526	\$13,871

Source: Agency for Health Research and Quality (AHRQ), Medical Expenditure Panel Survey. Note: Data are not available for 2007.

**Figure 5: Percentage of Individuals Without Health Insurance, 1999-2000**

Year	Texas	United States
1999	23.3%	15.3%
2000	24.3%	14.7%
2001	24.7%	15.2%
2002	27.0%	15.7%
2003	25.8%	16.4%
2004	26.6%	16.8%
2005	25.4%	16.5%
2006	26.4%	17.1%
2007	27.1%	16.6%
2008	26.9%	16.7%
2009	27.8%	18.2%
2010	26.9%	18.4%

Source: U.S. Census Bureau, Health Insurance Coverage Status and Type of Coverage by State—All Persons: 1999 to 2010.

**Figure 6: Direct Patient Care and Primary Care Physicians in Texas Per 100,000 Population, 1996-2010**

Year	Total Direct Care	Primary Care
	Physicians Per 100,000 Population	Physicians Per 100,000 Population
1996	142.4	61.8
1997	144.1	62.6
1998	145.6	64.7
1999	151.4	67.8
2000	152.4	68.4
2001	151.4	67.7
2002	151.9	68.3
2003	155.7	69.1
2004	155.2	68.3
2005	156.7	68.8
2006	155.1	67.6
2007	155.5	67.4
2008	157.8	67.9
2009	158.9	67.9
2010	162.3	69.1

Source: Texas Department of State Health Services. Direct care physicians are those who work directly with patients, and do not include researchers, administrators, or teachers. Primary care physicians are those who indicate that they have a primary specialty of general practice, family practice/medicine, internal medicine, pediatrics, obstetrics and/or gynecology, or geriatrics, and are a sub-set of direct patient care physicians.

**Figure 7: Non-Metropolitan Direct Patient Care Physicians in Texas Per 100,000 Population, 1996-2010**

<b>Non-Metropolitan Direct Patient Care Physicians in Texas Per 100,000</b>	
<b>Year</b>	<b>100,000</b>
1996	69.6
1997	76.8
1998	77.1
1999	81.1
2000	83.9
2001	83.6
2002	84.4
2003	86.2
2004	85.6
2005	85.4
2006	84.2
2007	84.7
2008	86.1
2009	85.9
2010	85.5

Source: Texas Department of State Health Services, "DPC Physicians per 100,000 Population, Metropolitan and Nonmetropolitan Counties, Texas, 1981-2010."

**Figures 8(a): Number of Medical Malpractice Payments on Behalf of Physicians Per 100,000 Population, 2000 to 2010**

<b>Year</b>	<b>Texas</b>	<b>United States</b>
2000	5.3	5.5
2001	5.4	5.8
2002	5.0	5.3
2003	4.9	5.2
2004	4.9	4.9
2005	4.6	4.7
2006	2.9	4.2
2007	2.5	3.8
2008	2.1	3.6
2009	2.1	3.5
2010	2.0	3.3

Sources: Public Citizen analysis of National Practitioner Data Bank, Department of Texas State Health Services and U.S. Census.

**Figures 8(b): Number of Medical Malpractice Payments on Behalf of Physicians, 2000 to 2010**

Year	Texas	United States
2000	1,104	15,445
2001	1,160	16,566
2002	1,080	15,195
2003	1,093	15,230
2004	1,099	14,373
2005	1,059	14,006
2006	673	12,491
2007	586	11,472
2008	500	11,014
2009	511	10,738
2010	510	10,195

Sources: Public Citizen analysis of National Practitioner Data Bank, Department of Texas State Health Services and U.S. Census.

**Figure 9(a): Inflation-Adjusted Per Capita Value of Medical Malpractice Payments on Behalf of Doctors, 2000-2010 (adjusted to Consumer Price Index in 2010 Dollars)**

Year	Texas	United States
2000	\$12.82	\$17.04
2001	\$18.15	\$18.95
2002	\$13.59	\$17.32
2003	\$13.23	\$18.03
2004	\$13.20	\$16.80
2005	\$9.77	\$15.39
2006	\$5.37	\$13.99
2007	\$4.23	\$12.94
2008	\$3.67	\$11.99
2009	\$3.26	\$11.51
2010	\$3.43	\$10.83

Sources: Public Citizen analysis of National Practitioner Data Bank, Bureau of Labor Statistics (Consumer Price Index) and U.S. Census.

**Figure 9(b): Total Value of Medical Malpractice Payments on  
Behalf of Doctors in Texas, 2000-2010  
(actual and adjusted to Consumer Price Index in 2010 Dollars)**

Year	Actual Dollars	Inflation-Adjusted
2000	211,129,850	267,352,675
2001	314,304,800	386,990,669
2002	244,236,300	296,037,747
2003	247,010,700	292,729,159
2004	257,145,300	296,834,704
2005	200,077,500	223,390,166
2006	116,799,750	126,333,761
2007	96,061,250	101,025,031
2008	88,154,250	89,281,446
2009	79,528,750	80,833,241
2010	87,022,500	87,022,500

Sources: Public Citizen analysis of National Practitioner Data Bank and Bureau of Labor Statistics (Consumer Price Index).