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### Wrong medicine to cure Texas' malpractice ills

January 24, 2003

**Source: Houston Chronicle By Bill Robins**

Gov. Rick Perry has declared that Texas faces an emergency due to skyrocketing insurance premiums paid by doctors and hospitals for medical malpractice coverage. This declaration is no mere bit of political rhetoric. By declaring the medical malpractice issue an "emergency," the governor has said it must be one of the issues that the top of the legislative agenda.

Leo Linbeck, senior chairman of the big business backed advocacy organization Texans for Lawsuit Reform, has argued ("Lawsuit reform is good for Texas consumers," Outlook, Jan. 23) that: "Many doctors are leaving Texas, or even leaving their profession, since they can no longer afford the risk of practicing medicine here." Of course, Linbeck and others place the blame directly on "frivolous" lawsuits that lead to huge payoffs for plaintiffs and plaintiff's lawyers, to the detriment of the ordinary consumer.

The trouble is, while doctors may be quitting the profession due to rising insurance costs, research has shown that the culprit is not the frivolous lawsuit.

Let's be clear, folks. This fight is not about helping doctors and consumers, as Linbeck and Perry disingenuously argue. This fight is a continuation of the ongoing effort by the business lobby to make the civil courts in Texas off-limits to average citizens.

In other words, it's political payoff time and no amount of window-dressing and scare-mongering is going to change that.

In 1999, former Texas Insurance Commissioner J. Robert Hunter, who also served as federal insurance administrator under Presidents Ford and Carter, released a study titled "Premium Deficit - the Failure of 'Tort Reform' to Cut Insurance Prices."

This study examined insurance data in all 50 states and the District of Columbia to determine whether tort reform had any appreciable impact on insurance rates. By dividing the states up into three categories - those that had enacted major tort reforms, those that enacted modest tort reforms and those that enacted little or no tort reforms - Hunter concluded that the so-called reforms did nothing to reduce insurance rates. Furthermore, it concluded that lawsuits are not the reason insurance rates periodically skyrocket.

Instead, as reported in a story that recently aired on National Public Radio, it is the insurance companies and their investment practices that are the real culprit behind skyrocketing premiums. Insurance companies make most of their profits from investing the money they receive in premiums. Hunter's study found that in years in which bond market interest rates are high, insurance companies rake in huge investment profits and cut their premiums significantly. In years when investment income drops (as it recently has), they drastically raise their premiums to stay afloat.

Lawsuits have nothing to do with it and no amount of "emergency" tort reform will reduce medical malpractice premium prices. In fact, the only thing Perry and his campaign contributors at Texans for Lawsuit Reform will achieve with their new package of legislation will be to further limit the ability of injured citizens to seek redress in the courts. Lives will be destroyed through sometimes blind and sometimes willful negligence and the negligent will rest comfortably at night knowing that they no longer have to fear being held responsible.

This is not to say that there is no such thing as a frivolous lawsuit. They are filed all the time. The system, however, is set up to address such lawsuits. Perhaps by mistake, Perry admitted this in his Dec. 1 press release declaring the medical malpractice "emergency." The release pointed out that, "86 percent of medical malpractice claims are dismissed without a payout."

The system works.

There is an emergency in Texas. It has nothing to do with frivolous lawsuits. Instead, the right of Texans to hold accountable those who do them harm is currently on life-support. And Gov. Perry and his political supporters are just itching to pull the plug.

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