

Patient Access Crisis: The Role of Medical Litigation

Bill Number: Joint Hearing

Hearing Date: February 11, 2003

Witness:

Jose Montemayor

Commissioner of Insurance, Texas

Austin, TX

Testimony:

Good afternoon Chairmen and Members; I am Jose Montemayor. I have the honor of being the Commissioner of Insurance for the great state of Texas. As a member of the National Association of Insurance Commissioners, I chair that group's Property and Casualty Committee, and separately, a working group looking into medical malpractice insurance coverage for physicians and other health care providers on a national basis.

Today, I am presenting for the record a report first provided to the Texas Legislature in late 2001 and updated in 2002, regarding the availability and affordability of medical professional liability insurance in Texas. There are a number of theories regarding the current situation in medical malpractice coverage; however, the sum of the report clearly indicates that loss trends - increasing amounts paid for claims - are the primary cause of rising costs in medical malpractice insurance. All other causes are a distant second. Many states, especially Texas, are writing at significant losses. Texas has \$1.60 in losses for every dollar in premium. This trend has affected net worth, with Texas carriers realizing a negative return of 3.3% for 2000, and a negative 2% return for the ten year period.

Over a four-year period, the claims costs per doctor have increased 50%. This is driven by claim frequency as well as claim severity. In my own state, we have an increasing number of claims per physician in the lower Rio Grande Valley. The reverse holds true in the other parts of the state where the amount per claim is higher though the frequency is lower.

These loss trends indicate the presence of liabilities which, due to their unpredictability, result in pricing increases of 80% to 140% for the major writers in Texas. With the stock market losses of the last few years, investment income and hard markets seem like reasonable culprits; however, a review of how insurance carriers invest their funds indicates that a preponderance of investments is in bonds. This investment allocation is natural for the industry as it attempts to stabilize cash flow.

What can never be fully conveyed in the statistics, though, are the accounts from people who suffer from lack of access to patient care. There are stories from the Rio Grande Valley to the Texas Panhandle of how people do not have access to care, not for lack of means, but for lack of willing providers. It has reached the point where good providers can no longer afford to practice medicine, or limit their accessibility, because of rising premiums. In my own state, doctors have only four carriers to choose from, down from seventeen a few years ago. This trend stifles the advancement of medicine and undermines the human infrastructure of our communities.

The attached report and summary charts presented to the Committees today speak volumes on a simple premise: balanced and reasonable limits on losses will stabilize the

medical liability insurance market and will go a long way to alleviate the looming crisis of access to health care.

I would be very pleased to answer your questions.

Respectfully Submitted,

Jose Montemayor

Commissioner of Insurance

Texas