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HEADLINE: Study says medical malpractice crisis is a myth

BYLINE: By Don Finley

BODY:

A new study that examined 15 years of medical malpractice claims in Texas found no evidence of a crisis, and no link between awards to patients and rising health costs or doctors' insurance premiums.

The Bush administration has proposed a range of tort reforms to address what it says is in fact a crisis, including capping the awards for noneconomic damages at \$ 250,000.

"Tort reforms," however, "don't affect insurance market problems. We think it's likely (that) insurance market problems" are causing doctors' premiums to rise, said David A. Hyman, professor of law and medicine at the University of Illinois and a co-author of the study.

Released Thursday, the study examined 150,000 insurance claims collected by the Texas Department of Insurance between 1988 and 2002. Hyman spoke at a news conference at the University of Texas at Austin, where two of the study's four authors are faculty members at the law school.

Adjusting for inflation and changes in population, the study found no overall increases in the number of medical malpractice claims, their amounts, or in jury verdicts against defendants.

The number of large claims -- those over \$ 25,000 in 1988 dollars -- remained roughly the same between 1991 and 2002. Smaller awards actually declined during the period, the study says. Awards over \$ 1 million remained fairly constant at 6 percent over those years.

The study's four authors -- who included, they said, two Democrats and two Republicans -- found that the total amount paid to Texas patients in 2002 was about \$ 515 million, or 0.6 percent of the \$ 93 billion spent on health care statewide.

That means medical malpractice settlements had little to do with the rising overall cost of health care, the study concludes.

But the head of the state's largest doctors group took issue with the conclusions.

"The authors of this study used data that was inflation-adjusted, population-adjusted, and health-care-cost adjusted. It was so adjusted that it became truth-adjusted," Dr. Bohn D. Allen, president of the Texas Medical Association, said in a statement.

"They would have you believe there has been no lawsuit-abuse crisis in Texas," Allen said. "The real truth is that there absolutely has been a lawsuit-abuse crisis in Texas, and that crisis was jeopardizing Texans' access to quality health care."

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Dr. Robert E. Suter, president of the American College of Emergency Physicians, said the study ignored the costs of defensive medicine -- additional tests and procedures aimed at avoiding potential liability. The federal government estimated those costs at between \$ 60 billion and \$ 108 billion a year, he added.

The state Medical Association lobbied hard for statewide tort reform, claiming that doctors were abandoning their practices and eliminating services such as obstetrics out of fear of lawsuits.

Malpractice insurance premiums rose by roughly 135 percent from 1999 to 2002. In 2003, the Texas Legislature passed Proposition 12, capping noneconomic damages at \$ 250,000.

In pushing for a nationwide cap, President Bush has said "every claim filed by a personal injury lawyer brings the chance of a huge payoff or a profitable settlement out of court. ... Lawyers are filing baseless suits against hospitals and doctors."

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