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HEADLINE: Tort system not to blame for med mal rates: Study

BYLINE: MARK A. HOFMANN

BODY:

Increased medical malpractice insurance premiums in Texas did not spring from problems with that state's tort system, according to a study conducted by four law professors.

Instead, the study-"Stability, Not Crisis: Medical Malpractice Claim Outcomes In Texas, 1988-2002"-found that, adjusted for inflation, the number of claims above \$25,000 in 1988 dollars remained roughly constant during the study period, while the number of claims below \$25,000 dropped. During the period 2000-2002, there was an average of 4.6 paid claims per 100 practicing Texas physicians compared to 6.4 paid claims per 100 practicing physicians in 1990-1992.

But the authors found that during the period 1998-2003 alone, medical malpractice insurance rates increased by a weighted average of 135% for the state's three largest medical malpractice insurers.

The authors conclude that medical malpractice insurance price spikes could stem from a variety of factors. These include the general nature of insurance, which depends in part on investment income; catastrophe-driven stresses across broad insurance and reinsurance markets; and the long-tail nature of medical malpractice insurance.

The authors also say that "many malpractice insurers or undiversified, single-line companies are sponsored by state and local medical societies....These member-owned insurers may feel pressure to estimate future losses on the low side, and then need to compensate for past underpricing when assets are depleted."

The authors say that they "mean to deny neither the importance of insurance prices nor the desire of policyholders to address significant price increases." Rather, "our point, which has been largely neglected in the furious battle over malpractice liability, is that attempts to avoid crises in malpractice insurance prices should focus on insurance, not litigation."

The study, which will appear in the May issue of the Journal of Empirical Legal Studies but which was made available Thursday on the Internet, was based on 15 years of closed medical malpractice claim reports gathered by the Texas Department of Insurance.

The study was sponsored by the Center on Lawyers, Civil Justice and the Media at the University of Texas Law School and the University of Illinois School of Law.

The study can be accessed online at <http://ssrn.com/abstract=678601>.

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