

**Wisconsin Hospital Association, Inc.**



Contact: Mary Kay Grasmick, 608-274-1820 or 575-7516 (Cell)

**Evidence Mounts: Caps Improve Health Care Access**  
***New Cap Reverses Loss of Docs in Texas,***  
***Improves Access to Care***

**MADISON (December 13, 2005)** ----- After several years of watching their health care delivery system erode, Texas voters approved a cap on excessive pain and suffering awards associated with medical liability. Now, two years after the limit was approved, patients in Texas are seeing improved access to health care as physicians return to that state and to a much less hostile legal environment.

As is true in Texas, Wisconsin patients have unlimited recovery of damages associated with lost wages, medical care and other out-of-pocket expenses associated with their care following a successful medical malpractice suit ("economic damages"). The cap only applies to non-economic damages, most commonly awarded for pain and suffering or other intangible losses.

During the late 1990's and early 2000's, Texas endured a medical access crisis fueled by unpredictable and excessive pain and suffering awards. In response to the growing crisis, Texas voters approved Proposition 12, a constitutional amendment in 2003 that limited awards of pain and suffering and other non-economic damages to \$250,000 against physicians and health care providers.

The stories of improved access in Texas are numerous.

The Texas Medical Association reported that one year after a cap on excessive pain and suffering awards was passed, Corpus Christi added 47 new physicians. This is in contrast to the 40 physicians that left Corpus Christi in the five years prior to the passage of medical liability reforms. One of those 47 new physicians included Mathew Alexander, MD, who was recruited from a Wisconsin residency program. As reported in the *Corpus Christi Caller-Times*, Alexander said if the reforms hadn't passed he would not have gone to Texas. "I'm here to take care of patients, not worry about the legal ramifications of my practice," said Alexander. "Practicing defensive medicine is expensive and doesn't provide good care."

The historically underserved Rio Grande Valley has added 128 physicians since the enactment of a cap two years ago. This includes 11 pediatricians, 10 family physicians, eight gastroenterologists and seven internists in Hidalgo County alone.

In the 18 months prior to the passage of lawsuit reform, the Beaumont medical community saw a net loss of 12 doctors. Since the passage of a cap on excessive pain and suffering awards, the community has gained 26 physicians including seven anesthesiologists and 18 emergency medicine physicians.

Statewide, physicians say fewer among them are avoiding high-risk patients following the passage of the cap.

A 2003 survey by the Texas Medical Association conducted before the passage of a cap found that more than half the surveyed doctors had stopped providing certain services to patients. However, a 2004 study found that since the enactment of caps on excessive pain and suffering awards, only 13 percent of Texas physicians had stopped providing certain services.

“For patients in Texas who had been suffering through a medical access crisis induced by mega-awards for pain and suffering, Texas’ cap has clearly been effective medicine,” said Wisconsin Hospital Association Senior Vice President Eric Borgerding.

In July, the Wisconsin Supreme Court struck down the cap on non-economic damages. Since then, hospitals have reported that it is more difficult to recruit physicians to the state. This, Borgerding said, is the first sign of a medical access crisis brewing in Wisconsin.

“We should be learning from states like Texas, before things get out of control,” said Borgerding. “The bottom line is that we must restore a cap in Wisconsin this legislative session, and we are calling on the Legislature and Governor to do just that.”