



Battle Over Legal ‘Reforms’ Has Been Costly to Families

Written On October 19, 2009 By [Bob Kraft](#)

The [Houston Chronicle](#) has a good editorial about recent insurance “reforms” in Texas and across the nation. The gist of the editorial is that these reforms are hurting, not helping, average consumers. Here are excerpts:

For 20-plus years, the insurance industry, aided by tobacco interests, polluters, developers and the medical industry, have been engaged in a pitched battle to take away the legal rights of families. Our state has been the front line in a battle for our Constitution. Sadly, the Constitution is losing, and Texas families have been the collateral damage.

All of this has been done in the guise of “reform,” but real legal reform should be designed to protect everyday Texans, making Texas a safer and healthier place. What we’ve been handed in Texas certainly doesn’t fall into that category. The only real beneficiaries of the decades-long fight in Texas have been a handful of powerful special interests that have boosted their bottom lines on the backs and broken hearts of countless Texas families.

These interests like to proclaim that this is all about reining in lawyers. That is just rhetorical spin to divert our attention from the real targets — Texas patients, homeowners, workers, seniors and families.

Lately we have heard a lot from these interests about Texas-style, anti-patient laws as a solution to our nation’s health care crisis. When insurance lobbyists rammed through legal changes that were designed

to severely limit the legal rights of Texas patients in 2003, we heard high-falutin' rhetoric promising dramatic improvements in the cost, access, and quality of health care. If only it were as simple as that.

What has actually happened? Health care costs have risen dramatically in Texas; we rank near the bottom in per-capita physicians; rural and underserved areas continue to struggle to attract new physicians; and Texas has the nation's highest rate of uninsured.

Here are the facts:

- • Families USA recently found that health insurance premiums for Texas families have increased 92 percent — more than 4.5 times faster than income.
- • The US Census Bureau reports that with 24.5 percent of our citizens without health insurance, Texas has the nation's highest rate of uninsured.
- • The American Medical Association ranks Texas 43rd in the number of doctors per capita and reports that more than half of Texas counties have an acute shortage of primary care physicians. This critical scarcity of physicians compelled lawmakers to raise taxes earlier this year to fund projects designed to attract physicians to rural areas.
- • Texas Medicare spending is growing 16 percent faster than the national average. In fact, 10 of the 15 health markets with the highest Medicare spending per enrollee are in states in which the medical and insurance industries successfully lobbied for severe limits on patient rights. Four of the nation's most expensive health markets are right here in Texas.

This is hardly a ringing endorsement for Texas as a model for the nation.

Of course health care is not the only arena where corporate and insurance interests have chosen to use their legislative influence to diminish the legal rights of others to benefit themselves. Homeowners have seen it with the creation of a state agency designed to shield homebuilders from the damage caused by

shoddy construction, workers have seen it in recent decisions by the Texas Supreme Court that have overturned long-established law designed to protect workers from injury caused by BP-style catastrophes, and consumers have seen it with the ubiquity of binding arbitration clauses that eliminate an individual's fundamental right to a trial by jury.

Rather than shifting accountability from those who cause needless death and injury to individuals and the taxpayers, our focus should be on addressing the root of these problems. We can do this by creating real safety standards, forcing industries to be accountable for their decisions, and restoring our constitutional legal protections.

The reality is that none of this has been or ever will be fixed by sacrificing individual legal rights.

The Texas model of including an immunity provision for special interest groups in every key legislative issue must stop. Congress should take heed that the talking points and rhetoric being pushed by a small band of moneyed special interests do not tell the full story in Texas.