

# Don't expect big health-care savings from medical malpractice reform

By [Jason Millman](#) October 15 at 5:12 PM

(AP Photo/Jeff Roberson)

There's been a long-running theory that one reason medical costs are bloated is that doctors are scared of medical malpractice suits, so they order expensive and unnecessary tests to protect themselves from liability.

But in three states over the past decade that enacted laws to put stricter limits on medical malpractice lawsuits, there hasn't been much of an impact in the volume or cost of emergency room care, a new Rand Corporation [study](#) shows.

The finding suggests that doctors "are less motivated by legal risk than they themselves believe," casting doubt on the level of savings that could be achieved through medical malpractice reform, according to the study published in the *New England Journal of Medicine* on Wednesday. The findings try to help clarify a topic still up to for debate — just how much wasteful "defensive medicine" could be eliminated from health care.

Rand researchers analyzed the experience of emergency rooms in Georgia, South Carolina and Texas after those states raised the bar for malpractice suits to "gross negligence" for emergency care — meaning doctors basically *had to know* they were providing improper care to a patient but did it anyway. As the researchers describe it, those state laws try to protect physicians working in a high-intensity environment who might not have complete patient information at the time care we provided.

Researchers reviewed more than 3 million Medicare claims for three main metrics: how often ER physicians ordered advanced imaging studies — the most common defensive medicine procedures ordered by ER doctors (and among the most expensive), the rate of inpatient admissions following ER visits, and total charges for an ER visit. They compared the results to neighboring states with lower barriers for malpractice lawsuits.

If the new medical malpractice laws freed up doctors to take fewer defensive measures, you'd probably expect reductions in those three metrics. But the researchers found nothing really changed in these three states, at least for Medicare patients that the study analyzed. Only Georgia exhibited a small reduction in charges per patient, they found.

There are a few things that could influence their findings, the researchers write. Emergency physicians may think the new malpractice laws still don't offer as much protection as they'd like. The state laws may have a stronger effect among patients under 65, who weren't included in this study. But the researchers said the findings suggest that ER doctors, when determining a patient's care, don't consider the chance of being sued as much as they claim to.

The new Rand research comes a few weeks after another study determined more than a quarter of hospital procedures were considered defensive actions, but just [13 percent of hospital costs](#) could at least be partially attributed to defensive medicine. Further, that study published in the Journal of the American Medical Association said completely defensive hospital orders accounted for just 2.9 percent of the costs, mostly because of additional days of hospitalization.