

## COURT RULING ON LIABILITY IS BOOSTING HEALTH CARE COSTS

Missouri hospitals' most significant medical liability concern is the 2014 *Jefferson v. Missouri Baptist* court ruling of the Eastern District Missouri Court of Appeals.

This ruling is spawning dramatic increases in liability exposure and medical malpractice insurance premiums. Those increased premiums drive up health care costs, both for patients and businesses that buy employee health insurance coverage for workers and their families.

Medical liability insurers indicate that this ruling is having a substantial adverse effect on Missouri hospitals — more than from past tort reform issues such as the loss of caps on noneconomic damages.

The effects of the case are daunting. But the ruling itself is based on a legislative drafting error.

When the General Assembly enacted medical liability reform legislation in 2005, it revised the law to specify that providers would not be held liable for the actions of those who are not their employees. However, the enactment defined the term “physician employee” but did not use that term elsewhere in the law. Instead, the law used the term “employee.”

In the *Jefferson v. Missouri Baptist* case, the court used the discrepancy to justify applying a significantly broader standard for imposing liability for the actions of non-employees. In doing so, the court expanded the liability of hospitals and other organizations for the actions of physicians and other practitioners who are not their employees.

The decision has established a legal precedent that all state courts are following.

The Missouri Hospital Association will be promoting legislation to restore the original intent of the 2005 medical malpractice reform law. Senator Caleb Rowden (R-Columbia) has introduced Senate Bill 237. Representative Kevin Austin (R-Springfield) has introduced House Bill 452.

In 2017, the Missouri General Assembly should reinstate this liability restriction. Doing so will restore what their legislative counterparts in 2005 and then-Governor Matt Blunt intended to do before their work was reinterpreted by the court.

