

THE RELATIONSHIP BETWEEN TORT REFORM AND MEDICAL UTILIZATION

By:

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INTRODUCTION

- Healthcare in the US consumes 17.6% of the nation's GDP
 - Healthcare spending is increasing at a rate faster than the GDP
 - Medicare accounts for 21% of healthcare expenditures, 28% of Medicare funding pays for hospital care and another 24% pays for physician services
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INTRODUCTION

- Over utilization of healthcare is a significant driver of rising healthcare costs.
 - Procedures and tests are not without risk. More healthcare does not equate with better healthcare.
 - Many have pointed to defensive medicine as a significant factor which increases healthcare costs.
 - Physician survey data have estimated that defensive medicine cost the healthcare system an estimated \$124 billion annually.
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PURPOSE OF THE STUDY

- Tort reform is expected to reduce healthcare costs by reducing the cost of malpractice suits
 - This study evaluates the effects of tort reform on Medicare provider expenditures.
 - Healthcare costs are directly related to medical utilization
 - The purpose of the study is to determine the effects of tort reform on Medicare costs and utilization
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METHODS

- Medicare provider reimbursement data from 2010 was obtained from Dartmouth Institute of Health Care
- Samples were adjusted for sex, race, age, and price
- State data was compared to the 2010 Pacific Research Institute state tort reform rankings
- States with significant tort reform and available recent Medicare expenditure data were selected (Nevada, Texas, and Mississippi). Medicare Expenditures in these states were compared pre and post tort reform.
- Analysis was preformed by calculating R and R² values.
- A map of Medicare Hospital Referral Regions and Medicare provider reimbursements per enrollee was created with 2010 claims data from the Dartmouth Institute. Wide variations of expenditures within some states were found.

RESULTS: MEDICARE REIMBURSEMENTS COMPARED WITH COMPREHENSIVENESS OF MEDICAL TORT REFORM

TABLE 1. Correlation of State Malpractice Reform and Medicare Utilization

	Total Reimbursement Per Enrollee (Price, Age, Sex and Race Adjusted)	
Reimbursement type	<i>R</i>	<i>R</i> ²
Total Medicare	-0.435	0.189
Hospital and skilled nursing facility	-0.360	0.130
Physician	-0.198	0.039
Outpatient facility	+0.025	0.001
Home health agency	-0.454	0.207
Hospice	-0.276	0.076
Durable medical equipment	-0.350	0.123

RESULTS: PREREFORM AND POSTREFORM REIMBURSEMENTS: MISSISSIPPI

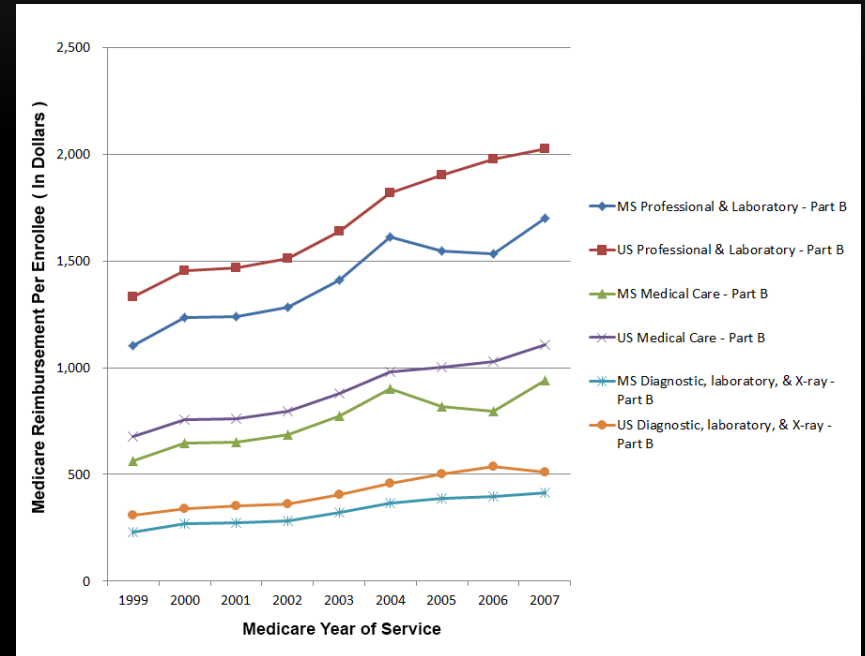
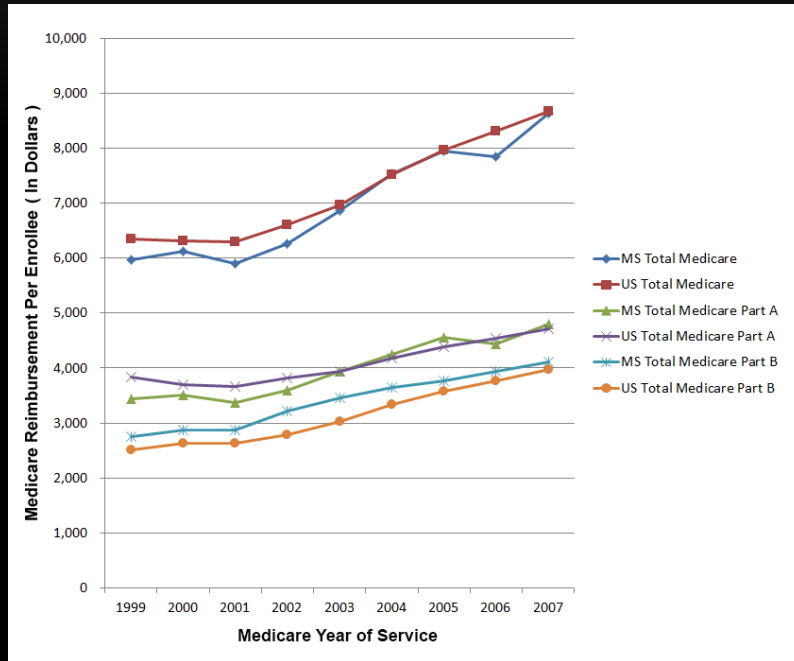


FIGURE 2. Traditional Medicare utilization per Enrollee (dollars) in the State of Mississippi (MS) for years of service of 1999--2007 Tort Reform in 2002 and 2004. Reimbursements are compared with US average reimbursement for each category. Data are age, sex, and race adjusted--from the Dartmouth Institute. A, Total Medicare, Medicare Part A and Medicare Part B reimbursements. B, Professional and Laboratory (Part B); Medical Costs (Part B); and Diagnostic Laboratory, and X-Ray (Part B) reimbursements.

RESULTS: PREREFORM AND POSTREFORM REIMBURSEMENTS: NEVADA

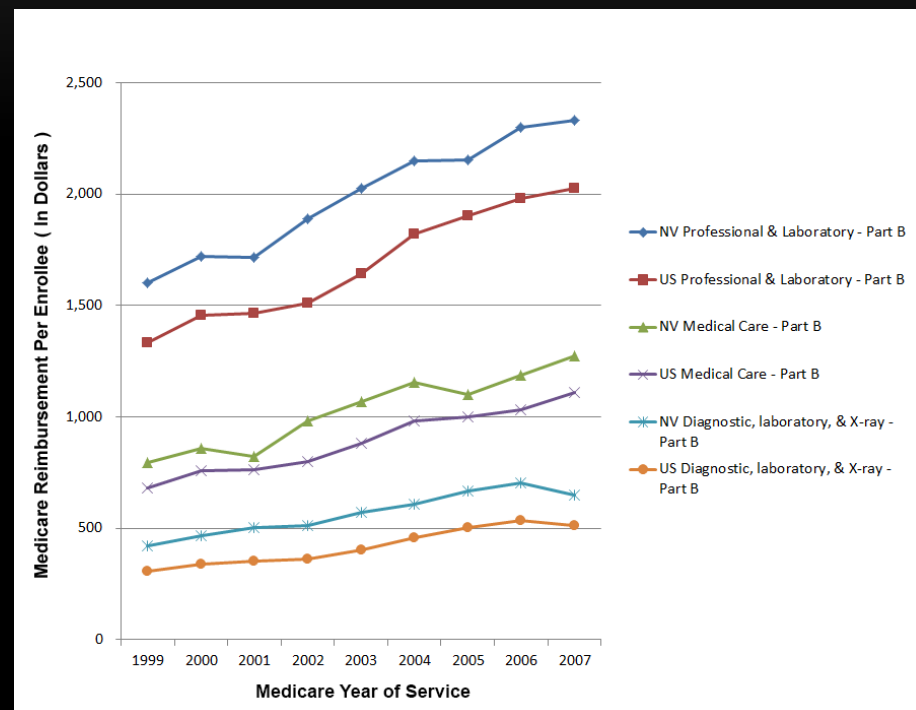
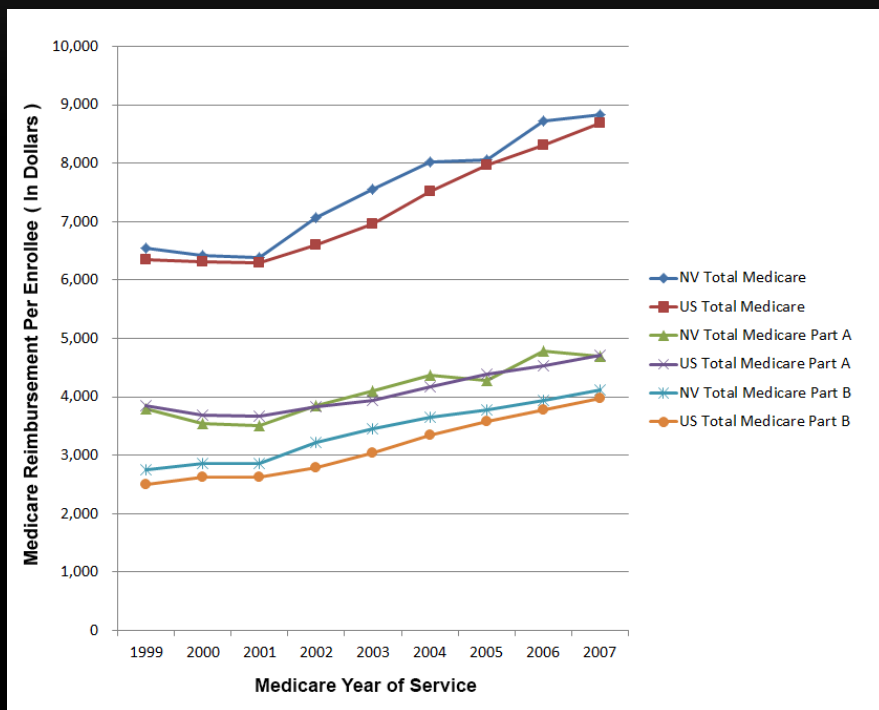


FIGURE 3. Traditional Medicare utilization per Enrollee (dollars) in the State of Nevada (NV) for years of service of 1999-2007 Tort Reform in 2002 and 2004. Reimbursements are compared with U.S. average reimbursement for each category. Data are age, sex and race adjusted - from the Dartmouth Institute. A, Total Medicare, Medicare Part A and Medicare Part B reimbursements. B, Professional and Laboratory (Part B); Medical Costs (Part B); and Diagnostic Laboratory, and X-Ray (Part B) reimbursements.

RESULTS: PREREFORM AND POSTREFORM REIMBURSEMENTS: TEXAS

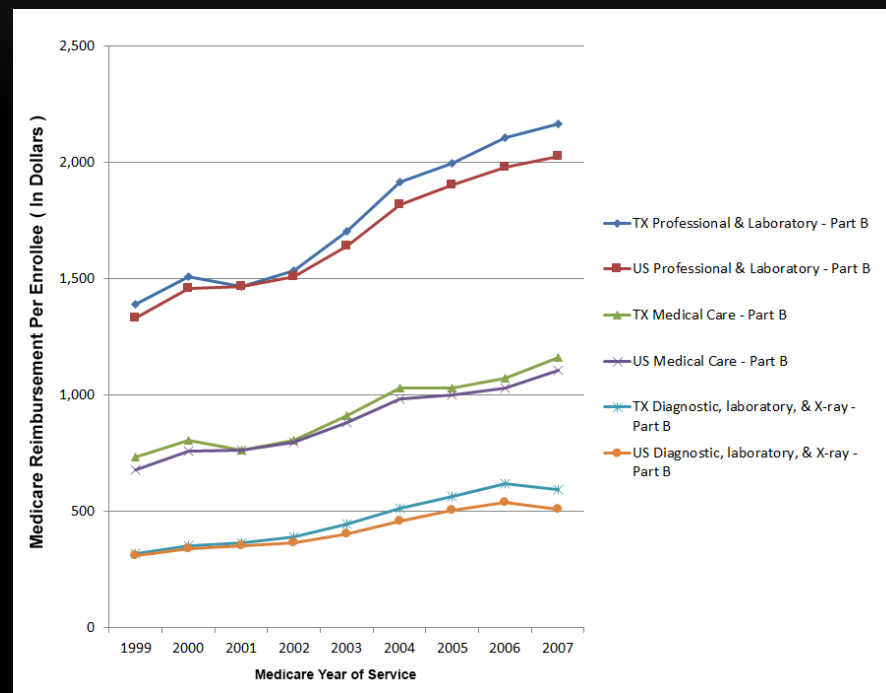
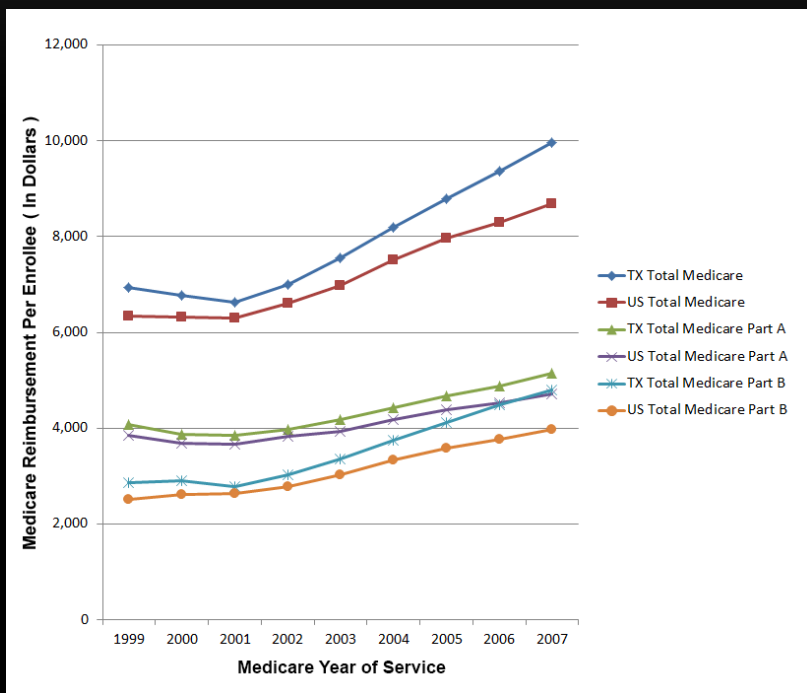


FIGURE 4. Traditional Medicare utilization per Enrollee (dollars) in the State of Texas (TX) for years of service of 1999-2007 Tort Reform in 2003. Reimbursements are compared with U.S. average reimbursement for each category. Data are age, sex and race adjusted from the Dartmouth Institute. A, Total Medicare, Medicare Part A and Medicare Part B reimbursements. B, Professional and Laboratory (Part B); Medical Costs (Part B); and Diagnostic Laboratory, and X-Ray (Part B) reimbursements.

RESULTS: PREREFORM AND POSTREFORM REIMBURSEMENTS: REIMBURSEMENT FOR PHYSICIAN SERVICES FOR THREE STATES

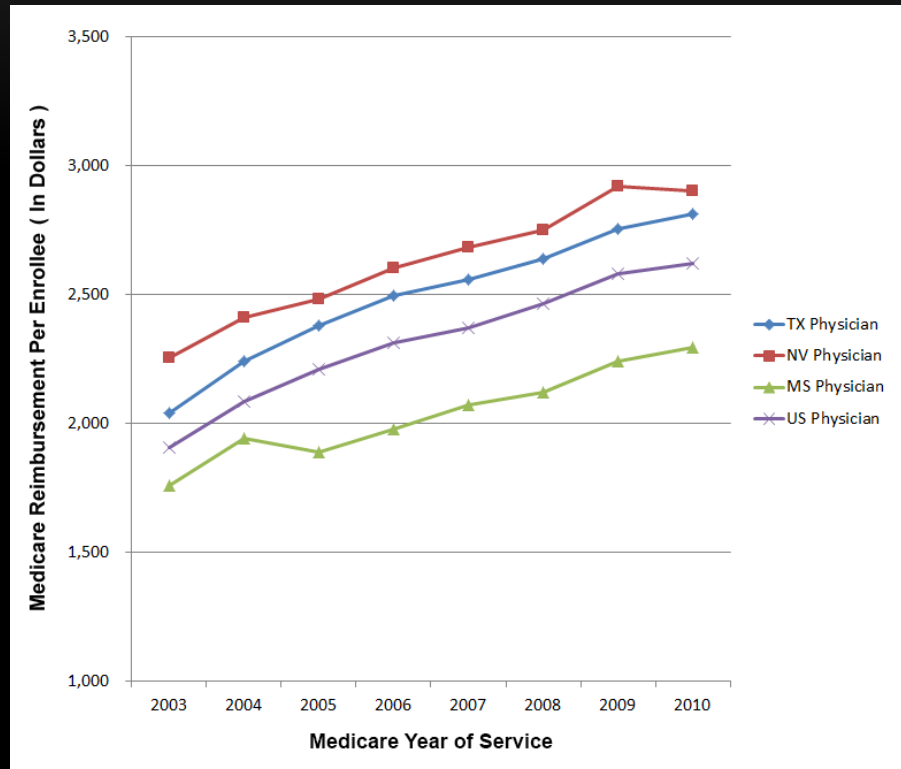


FIGURE 5. Traditional Medicare utilization per enrollee (dollars) for Physician Services in the States of Texas (TX), Nevada (NV), and Mississippi (MS) for years of services of 2003-2010. Reimbursements for Physician services are compared with U.S. average reimbursement. Data are price, age, sex, and race adjusted-from the Dartmouth Institute.

RESULTS: INTERSTATE VARIATION

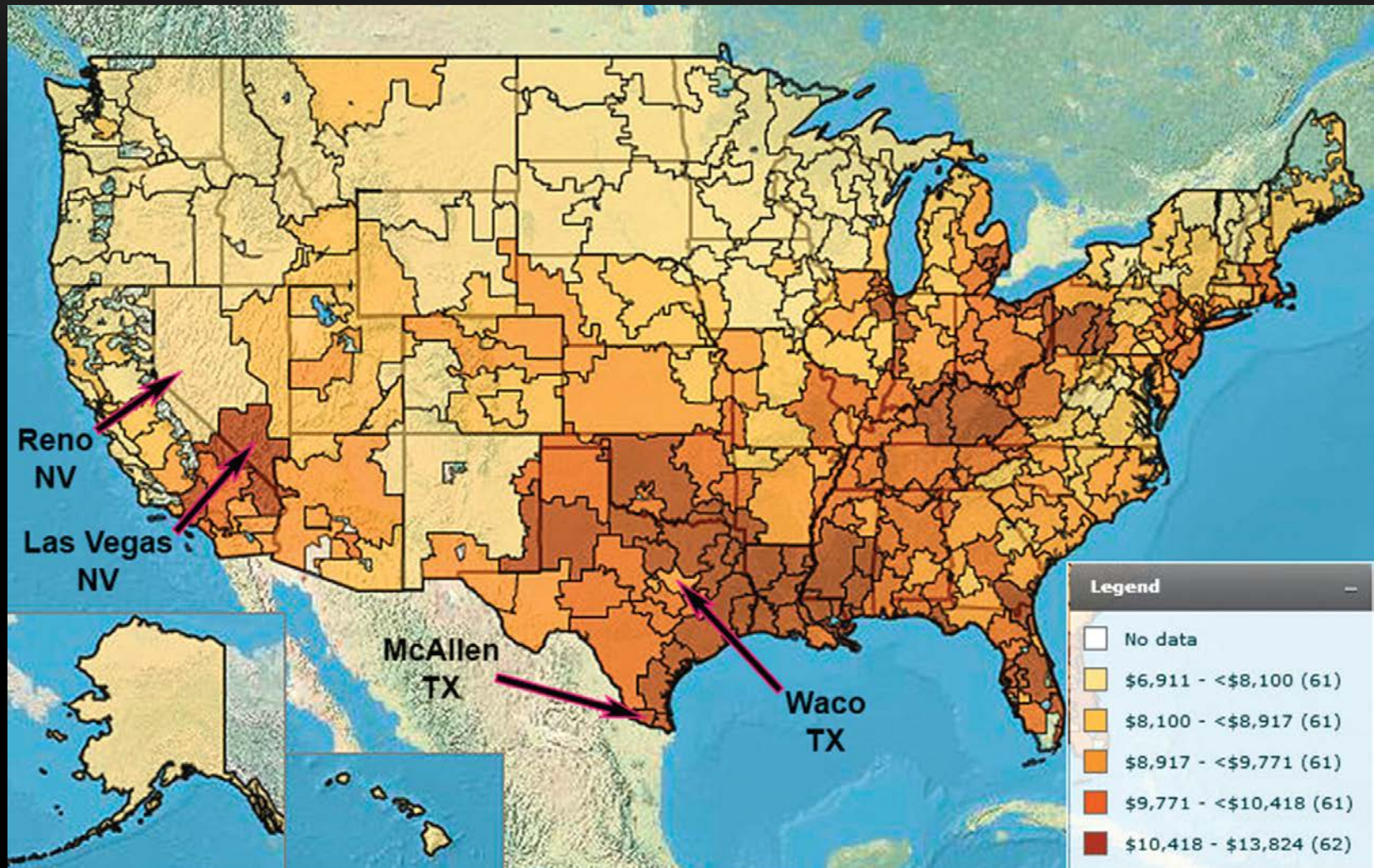


FIGURE 1. Traditional Medicare reimbursements per enrollee (dollars) by Medicare hospital referral region (price, age, sex and race adjusted), 2010 data-screen display from the Dartmouth Institute's Dartmouth Atlas of Health Care Website, accessed May 2, 2013, at www.dartmouthatlas.org.



DISCUSSION

- Study findings are not consistent with the hypothesis that defensive medicine is a significant factor in medical overutilization or rising health care costs in the US
 - Study observed that states with more comprehensive reform tend to have higher medical utilization
 - The study does not support the policy that healthcare expenditures can be reduced by the introduction of the current type of tort reform
 - The number of observations presented are small. The negative correlations found in table 1 are weak but (with the exception of outpatient facility reimbursements which had little or no correlation) they are in the opposite direction than predicted by the hypothesis that tort reform will lower medical expenditures.
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DISCUSSION

- Possible Reasons for Negative Results
 1. The Current Tort Reform May Simply Switch the Process (As evidenced in the State of Nevada) from Civil Court to Criminal Court and, Thus Will NOT Have an Impact on Defensive Medicine.
 2. Defensive Medicine is NOT a Primary Driver of Healthcare Costs.
 3. Tort Reform May Increase Utilization (As in Texas) By Eliminating Accountability.
 4. Tort Reform Will Decrease Costs (As in Mississippi) By Impact is Too Small To Have a Meaningful Impact on the Medicare Budget.
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CONCLUSION

- We could find no evidence that tort reform will have a significant impact on healthcare expenditures and is a valid policy for the control of rising healthcare costs.