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# Doctors' Duties Need Regulation

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For years, Florida has debated an alleged doctor shortage with the primary scapegoat being patients and the attorneys who help them seek justice when they have been injured or killed by medical negligence or malpractice.

This is despite the fact that since 2001, the number of actively licensed medical doctors and osteopathic physicians in Florida increased from 47,510 to 56,752 and that in the last year alone, 1,931 new doctors began practicing in Florida, according to Florida Department of Health records.

In 2003, the Florida Legislature addressed this issue, holding hearings under oath in which state insurance and medical leaders surprised everyone by admitting that Florida does not have a problem with frivolous lawsuits or disappearing doctors. Nonetheless, the Legislature bowed to the threats and pleadings of the insurance and health care industries by placing significant restrictions on the rights of medical negligence victims and their families.

At the time, the insurance and health care industries made it clear that they were perfectly willing to pay the medical bills and other economic expenses of the patients they injure or kill, but they just wanted certainty as to how much they would have to pay for non-economic damages, such as loss of enjoyment of life. But upon receiving that certainty, they immediately began trying to stop victims of medical negligence from seeking or receiving justice altogether.

From attorney fee caps meant to discourage attorneys from taking cases to increasing calls for broader and broader immunities, and now proposed legislation that would give anyone who treats an ER patient protection under the state's sovereign immunity at the expense of Florida taxpayers, there is a rush to make anyone who so much as looks at a patient Teflon proof against judgment - no matter how negligent their actions or how devastating the result of malpractice.

Meanwhile, nothing is being done to address the infinitely more complex issues driving a very real problem - the lack of ER doctors and physicians willing to take call. These include hospitals that no longer require doctors to take call duty as a prerequisite of enjoying practice privileges because they fear losing their physicians to other hospitals, coupled with doctors who place greater value on their families and personal lives and therefore are increasingly unwilling to take call.

In addition, Medicare, Medicaid and HMO reimbursement rates are too low to cover costs, while insurance rates have not dropped despite extreme caps on damages and plummeting claims and payout rates.

Fixing health care in Florida will not be easy. We can say for a certainty, however, that "tort reform" and "tort immunity" are not the solution, because Florida already offers its doctors - and especially emergency room physicians - some of the most generous legal immunities and protections in the country.

Policymakers should instead focus on real solutions to this problem, even though they may be more politically difficult. These could include addressing reimbursement rates, increasing requirements for doctors to take call as a condition of practice, requiring hospitals to shoulder more responsibility and implementing true medical malpractice insurance reform that requires insurance companies to pass their savings on to Florida's doctors.

Our great state has a lot to offer the medical community. These attractions were enough to entice nearly 2,000 new doctors to Florida in the last year alone. Now we need to find sensible solutions to get some of those doctors to spend time away from their offices caring for patients in our hospitals' emergency rooms.

Frank Petosa is president of the Florida Justice Association.

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