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Rep. Spencer Roach, R-North Fort Myers sponsored the bill. Photo: Robert Hunter/Florida House of Representatives

NEWS

Medical Malpractice Fight Re-Emerges

The debate centers on an unusual part of Florida law that involves wrongful-death claims in medical malpractice cases.

January 28, 2022 at 10:50 AM

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Medical Malpractice

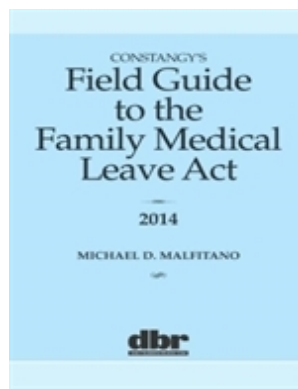
By Jim Saunders

The Florida House on Thursday refueled a debate about whether parents should be able to seek damages for mental pain and suffering when their adult children die because of alleged medical malpractice.

The debate centers on an unusual part of Florida law that involves wrongful-death claims in medical malpractice cases. That part of law bars parents from seeking pain-and-suffering damages when their adult children do not have surviving spouses or children.

The House Civil Justice & Property Rights Subcommittee on Thursday voted 13-5 to approve a bill (HB 6011), sponsored by Rep. Spencer Roach, R-North Fort Myers, that would change the law to allow parents of adult children to pursue such damages in malpractice cases.

The House passed the change last year, but the issue did not get through the Senate. The proposal drew opposition Thursday from physician groups and insurers, which argued that it would lead to increased malpractice insurance premiums.



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“It’s about lawyers wanting to make these wrongful-death cases more attractive,” said Florida Medical Association President Douglas Murphy, an Ocala physician. “Awarding more money in wrongful-death cases will not serve to hold physicians accountable. (The) licensure and discipline process set up through the Department of Health and administered by the Board of Medicine is the mechanism by which physicians in Florida are held accountable for their mistakes.”

But supporters of the bill described situations in which patients died because of alleged medical malpractice without recourse. Jordan Dulcie, an attorney representing the Florida Justice Association trial-lawyers group, said the bill “corrects a huge miscarriage of justice.”

“Just because you are 26, just because you are unmarried, perhaps you have no children, does not make your life any less valuable,” Dulcie said.

Florida law allows surviving spouses and children under age 25 to seek pain-and-suffering damages in wrongful-death cases. A House staff analysis said parents of adult children without spouses or children can seek pain-and-suffering damages in wrongful-death cases involving situations such as fatal car accidents.

But that does not apply in medical-malpractice cases, which the analysis said stems from past concerns about malpractice insurance premiums. Florida is the only state that differentiates between wrongful-death claims in malpractice cases and other types of cases, according to the analysis.

Medical malpractice has long been a battleground in the state Capitol, with doctors, hospitals and insurers contending, in part, that high insurance premiums can affect access to care. But plaintiffs’ attorneys and other groups contend that limits on medical-malpractice claims hurt victims.

Many Republican lawmakers in the past have supported restrictions on malpractice lawsuits. But Roach’s bill drew support Thursday from a bipartisan group of House members, with five Republicans opposed.

“We have to hold doctors to a high standard because, except for God, they hold our life and our death in their hands,” Rep. Yvonne Hinson, D-Gainesville, said.

But Lou Sicilian, regional operating officer at The Doctors Company, the state’s largest medical-malpractice insurer, warned that the bill would lead to increases in claims and, as a result, higher premiums.

“This will ultimately impact all Floridians by increasing the cost of health care and reducing access to that same health care,”

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