

**Governor Bush, Senate President King and
House Speaker Byrd Announce Medical Malpractice Agreement**

**Source: The Florida Legislature and the Executive Office of the Governor
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Governor Jeb Bush, Senate President Jim King, and House Speaker Johnnie Byrd today announced an agreement has been reached on key elements of medical malpractice reform. The agreement will protect access to health care for Floridians, encourage quality care through preventive strategies and enhanced disciplinary action, reduce ever-increasing insurance premiums for Florida's physicians, maintain remedies for future victims of medical malpractice, and increase physicians' access to affordable insurance coverage.

- Among other areas addressed in the proposed medical malpractice legislation, the plan would include provisions such as:
- Providing reasonable caps for emergency medical care practitioners and emergency rooms. Specifically, the noneconomic damage caps agreed upon are:
- ER practitioner caps of \$150,000 per claimant, with aggregate to \$300,000 and no piercing.
- ER facility caps of \$750,000 per claimant with aggregate to \$1.5 million with no piercing and full setoffs for practitioner payments.
- Providing for caps on noneconomic damages based on two categories: practitioners and non-practitioners. Practitioners include physicians, advanced registered nurse practitioners, dentists, and other licensed health care practitioners. Non-practitioner defendants include hospitals, ambulatory surgery centers, hospices, managed care companies, laboratories and others. Liability would continue to be pursued against the nurse's employer, which could be a practitioner or a non-practitioner. Non-practitioner defendants are subject to their own cap even if the theory of liability is vicarious liability. Setoffs would be for noneconomic damages within the same category, except emergency room situations where the hospital will have a full setoff of payments made by a practitioner. Specifically, the amounts of the agreed upon caps are:
- Non-practitioner caps of \$750,000 per claimant, with aggregate for all claimants and piercing to \$1.5 million for death, permanent vegetative state, or limited catastrophic injuries.
- Practitioner caps of \$500,000 per claimant with aggregate for all claimants to \$1 million, but no single practitioner shall be liable for more than \$500,000 regardless of the number of claimants; piercing available up to \$1 million regardless of the number of claimants or defendants for death, permanent vegetative state, or limited catastrophic injuries.
- Maintaining current law regarding who can bring suit for bad faith and how much they can recover. Providing a "safe harbor" promotes greater exchange of information and quicker resolutions without being subject to bad faith litigation that would encourage insurance companies to settle claims without being subject to bad faith litigation, and specifying considerations that may be used to resolve bad faith cases outside the safe harbor. This would protect both Florida's doctors and future victims.
- Providing an immediate insurance rate freeze for physician premiums until new reduced rates could be filed and approved for January 1st which would roll back premiums based on the cost savings derived from the legislation.

"The reforms outlined in this latest proposal will protect access to care for the people of this state, which is our primary goal," said Governor Bush. "This legislation will create stability in the insurance market and provide insurance relief for doctors. I commend the Legislature for their continued efforts to reach agreement on a very complex issue that has a direct impact on every Floridian."

"The past few months have proved that the issue of medical malpractice insurance reform is a complicated one. But, as I knew we would, today we stand before you united in agreement as to how to best preserve quality health care for all Floridians," said Senate President Jim King. "There is no doubt that we reached this agreement by reading different road maps, but the end destination for the Senate has always been to protect the rights of Florida's patients when medical malpractice occurs. I would like to thank Senator Tom Lee and Senator Rod Smith for their tireless efforts in bringing us to this point. The Senate looks forward to enacting meaningful reforms in the coming days."

"When the Florida House started examining the medical malpractice insurance crisis 10 months ago, we had one goal in mind: ensuring access to quality, affordable health care for all Floridians. We believe the compromise package put forward this morning meets that goal," said House Speaker Johnnie Byrd. "Today's agreement will allow Florida patients to continue seeing their family doctors, bring stability to the insurance market, and protect our loved ones from medical errors. I would especially like to thank Representatives Allan Bense and Dudley Goodlette for their diligence and hard work on this issue. All Floridians have been well served by their leadership."