The Supposed Medical Malpractice Reform “Crisis”  
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When I wrote my column two weeks ago blasting the insurance industry’s proposed medical malpractice reform in the legislature, I received several emails and comments, both positive and negative. Some readers took my position that medical malpractice reform is not in the best interests of Florida citizens. I heard from some local physicians who offered their opinions as to why they feel medical malpractice reform is necessary. And some resorted to taking shots at me and the legal profession, which I fully expected. It was easy to see that many strong opinions are held on the issues of medical malpractice and tort reform in the legislature.

The second special session of the Senate did not resolve the issues of medical malpractice reform, and Governor Jeb Bush called a third special session set for July 9.

Governor Bush has called this a “crisis” as many doctors are threatening to stop practicing or move out of Florida if reform is not passed. Most doctors will complain about the price of their insurance premiums and cite this as the reason that medical malpractice reform is necessary. I cannot dispute that insurance premiums are a point of legitimate concern for doctors, but the premium increases are not the result of “frivolous lawsuits” or “too many malpractice claims.” The problem is the greed and manipulation of the insurance industry.

Medical malpractice suits are less in number than they were 10 years ago and so are the amounts of settlements and jury verdicts. Furthermore, to call a case “frivolous” is saying that a suit has no merit, and lawsuits with no merit are not usually successful, I don’t care how many stories there are in the media about people spilling McDonald’s coffee on themselves and collecting millions of dollars. (By the way, the lady I’m speaking of never collected a penny as the jury verdict was overturned on appeal.)

Senate President Jim King said that during the third special session that the insurance companies will be asked to open up their books and give sworn testimony. Finally, somebody hits the right button. Although at first glance this appears to be a doctors versus lawyers issue, the underlying insurance industry influence is the source of this problem.

What is being lost by the media covering this debate is that this medical malpractice reform is not just about capping noneconomic damages at $250,000.00. The insurance industry wants one of the few laws that keeps them in check to become irrelevant. Florida Statute 624.155 regulates bad faith by an insurance company in failing to settle a claim “when under all the circumstances, it could and should have done so…” Checks and regulations are already in place for attorneys and doctors. Doesn’t there have to be some type of check on the behavior of insurance company employees to protect citizens?

If you take the time to examine the issues being debated in Tallahassee on these proposed reforms, it is not hard to figure out who is at the center of this controversy, and who will benefit the most. Obviously, there is a problem if doctors are finding it too costly to practice medicine in this state due to high insurance premiums. But noneconomic caps of $250,000 and bad faith reforms are not the answer. However, reforms in the way insurance companies do business in this state may provide more
benefits to citizens and medical providers than any of the proposed medical malpractice reforms will offer.

Governor Bush calling this situation a “crisis” when the books of the insurance industry have not been examined to see the reasons for the premium increases that doctors and all of us have suffered over the last several years. After sworn testimony is given and the insurance industry has to back up their reasons for raising doctors’ premiums to obscene amounts, we shall see who is responsible for this “crisis” that has had negative effects on both doctors and Florida citizens alike.