

House seeks to revive malpractice caps

By Christine Sexton
The News Service of Florida

TALLAHASSEE — A Florida House panel Wednesday backed a proposal that would cap damages in medical-malpractice cases and, according to a sponsor, send a message to the state’s highest court.

“This ... is clearly the Legislature saying, ‘Hey, the Supreme Court of Florida, you need to respect the separation of powers,’ ” Rep. Tommy Gregory, R-Sarasota, said while describing the bill to the House Civil Justice Subcommittee. “We are telling the court, ‘You decided these cases contrary to our intent.’ ”

The proposal (PCB CJS 19-02) would reinstate caps on noneconomic — commonly known as “pain and suffering” — damages in medical malpractice cases that the Legislature initially approved in 2003. A sharply divided Supreme Court in 2017 found the damage limits unconstitutional.

The bill also would put into law a finding that the Supreme Court rulings were “decided contrary to legislative intent and existing case law interpreting the equal protection clauses of the state and federal constitutions.”

Under the 2003 law, which was approved after a fierce political fight, damages were capped at different amounts, depending on factors such as the numbers of claimants in lawsuits and the types of defendants. For example, part of the law included \$500,000 and \$1 million damage caps for physicians, with lower amounts when cases involved emergency care.

The approval Wednesday was the second time in as many weeks that the Civil Justice Subcommittee supported placing caps on jury awards. The panel last week agreed to cap at \$1 million the amount of damages for pain and suffering that can be awarded in personal-injury or wrongful-death lawsuits not stemming from medical malpractice.

Some lawmakers Wednesday supported a proposal by Rep. Amy Mercado, D-Orlando, that would have eliminated a legal restriction that prevents certain adult children and some parents of adult children from recovering damages for wrongful deaths stemming from medical negligence. The amendment was supported by the Florida Justice Association, a plaintiffs’ attorneys group that argued

current law devalues human life and protects hospitals and physicians.

Though he supported reinstating the caps on damages for medical malpractice, Rep. Mike Beltran, R-Lithia, also supported Mercado’s amendment.

He said that other changes in the bill should result in lower medical-malpractice insurance premiums for health providers. Eliminating the restriction on wrongful death lawsuits for adult children and parents of adult children, Beltran said, was balanced.

“The purpose of medical malpractice is to incentivize doctors to practice carefully and then to provide compensation when they don’t. By allowing this hole in the malpractice law where these adults aren’t getting compensated if they die, that doesn’t serve that purpose,” he said.

But insurance lobbyist Mark Delegal said allowing adult children and parents of adult children to sue for medical negligence would increase costs, the exact opposite goal of the bill.

“This amendment is a cost increaser,” Delegal said. “I can’t say enough bad about this amendment.”

Ultimately, the amendment failed on a voice vote.

Another Mercado amendment would have eliminated part of the bill addressing “phantom costs” and letters of protection. If that part of the bill becomes law, it also would lower the amount that injured patients could recover in lawsuits.

“Phantom” costs are the difference between what health-care providers charge for services and what they agree to accept for payment. Letters of protection are issued by law firms and can contain “phantom” costs. To combat the increasing use of letters of protection, the proposed legislation would prevent juries from considering what health-care providers charge for services when considering damages in lawsuits. Instead, they only would be able to consider the amounts that hospitals and doctors agree to accept from insurance companies to settle bills.

The committee also beat back an amendment that would have deleted from the bill the findings that the court erred in its 2017 opinion in the case of North Broward Hospital District v. Kalitan. That 4-3 decision was an affirmation of a 2014 ruling known as McCall v. United States.

Advanced nurses and physician assistants get boost

By Christine Sexton
The News Service of Florida

TALLAHASSEE — Saying the need for health care outpaces Florida’s physician workforce, Rep. Cary Pigman on Tuesday swayed members of a House panel to approve a bill that would give advanced practice registered nurses — and physician assistants — the ability to work independently of doctors.

The House Health Quality Subcommittee voted 10-3 to support the measure (HB 821), which drew opposition from physicians.

Patients currently can get care from advanced practice registered nurses and physician assistants, who work alongside doctors and under contractual agreements with supervisory physicians. Initially, Pigman’s bill would have given the nurses the ability to work independently of physicians.

Pigman, an emergency room physician, offered a 153-page amendment to the measure that added physician assistants to the bill, a move that made doctors, and some lawmakers, more uncomfortable with the measure.

“I think I’m going to

be up now, but I’m up, struggling up,” said Rep. Kimberley Daniels, D-Jacksonville.

But Pigman, R-Avon Park, tried to assuage their concerns, saying that no data supports the argument that advanced practice registered nurses and physician assistants provide lower-quality care.

If they dare to be “snarky,” Pigman suggested that lawmakers ask whether doctors oppose the bill because it would give patients access to other health care professionals.

“Is this a turf issue? Don’t we do these turf issues every year?” Pigman asked. “Wasn’t the world going to end when the optometrists were granted the ability to prescribe certain oral medications? I don’t remember the world ending when we did that.”

The U.S. Department of Health and Human Services in December designated 7,026 primary-care health professional shortage areas. In Florida, there are 698 shortage areas for primary care, dental care and mental health. It will take 1,658 primary-care, 1,266 dental-care and 409 mental-health practitioners to eliminate the shortage areas.

BOARD

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Spaces spending.

Monday, The Sun published an article that detailed salaries of Gainesville’s six Wild Spaces department employees after a resident raised concerns about the city’s approval of a \$90,000 project manager position.

The Wild Spaces half-cent, sales tax was approved by voters in 2016 and will sunset in 2024. Alachua County oversees the disbursement of the sales tax to cities within the county. So far, Gainesville has received about \$15 million. The county has received about \$23 million.

City officials have said there has been no improper use of the funds, as the employees are working to create and improve existing and new facilities with Wild Spaces money, one of the sales tax’s requirements. They’ve also noted that the city and county are different, and the county’s conservation land buys are less maintenance intensive than the city’s parks infrastructure, which require more management.

Collectively, taxpayers will spend roughly \$2 million of the sales tax on Gainesville’s new department employees, some of whom were already on the city payroll.

Wild Spaces funds also have been used to buy other office supplies for those employees, including cellphone service, phone cases, chairs, computers, software and a newspaper subscription.

County Commissioner Mike Byerly, who pushed for the review, said Tuesday that creating a half dozen new positions wasn’t how he envisioned money being spent. The Wild Spaces oversight board can offer a recommendation that county commissioners ask the city to pay back Wild Spaces funds if it was improperly spent.

Though the city and county take different approaches in spending Wild Spaces money — the city focusing on building and improving parks and

the county focusing on buying conservation land — the county hasn’t hired any additional staff with the sales tax.

County Commissioner Ken Cornell said he has received an inordinate amount of calls from residents who said they were losing trust in the sales tax and said it was unfortunate that the city is spending additional money on staff positions.

Cornell added that he hopes a joint-discussion can resolve some concerns and restore public trust so that voters consider a similar sale tax in about five years.

City Commissioner Helen Warren said Monday that comparing the the county and city’s spending isn’t fair and that the county outsources some work to the Alachua Conservation

Trust to search for land prior to purchase. However, the city also pays the group for land acquisition work.

Byerly said the county has 25 full-time employees — not funded by Wild Spaces — for its parks and to maintain and care for its conservation land, and not “Mother Nature”

as Warren said Monday.

County spokesman Mark Sexton said the county uses Wild Spaces money for parks projects, too, but the work is done by existing staff.

Gainesville has made improvements to parks and facilities around town with some of its

Wild Spaces share, such as heating at the H. Spurgeon Cherry pool, and improvements and shading covers at parks. The city is planning to build new parks, which bring additional construction and planning costs, work that also is going to third-party contractors with Wild Spaces funds.

PUBLIC NOTICE OF ENACTMENT OF AN ORDINANCE OF THE CITY OF ALACHUA, FLORIDA

Notice is hereby given that the City Commission of the City of Alachua will hold a public hearing on a proposed ordinance. The hearing will be held on March 25, 2019, at 6:00 p.m., in the James A. Lewis Commission Chambers in City Hall, located at 15100 NW 142nd Terrace, Alachua, Florida.

The ordinance title is as follows:

ORDINANCE 19-22

AN ORDINANCE OF THE CITY OF ALACHUA, FLORIDA, RELATING TO THE AMENDMENT OF THE CITY’S LAND DEVELOPMENT REGULATIONS (“LDRS”); AMENDING SUBPART B OF THE CITY OF ALACHUA CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS; AMENDING SECTION 2.1.1(B) AND TABLE 2.1-1, RELATING TO THE DEVELOPMENT REVIEW STRUCTURE; AMENDING SECTION 2.1.3(C), RELATING TO THE POWERS AND DUTIES OF THE PLANNING & ZONING BOARD; AMENDING SECTION 2.1.6(A) (2), RELATING TO THE POWERS AND DUTIES OF THE LDR ADMINISTRATOR; AMENDING SECTION 2.4.6, RELATING TO CERTIFICATES OF APPROPRIATENESS; AMENDING SECTION 3.7.2(A)(5), RELATING TO THE REQUIREMENT TO OBTAIN A CERTIFICATE OF APPROPRIATENESS; AND AMENDING SECTION 10.2, DEFINITION OF “CERTIFICATE OF APPROPRIATENESS”; CREATING THE CITY OF ALACHUA CERTIFICATE OF APPROPRIATENESS APPROVAL MATRIX; PROVIDING A REPEALING CLAUSE; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

At the public hearing, all interested parties may appear and be heard with respect to the application. Copies of the application are available for public inspection at the Planning and Community Development Department, 15100 NW 142nd Terrace, Alachua, Florida, on any regular business day between the hours of 7:30 a.m. to 6:00 p.m. Written comments on the application may be sent to the following address: City of Alachua, Planning and Community Development, P.O. Box 9, Alachua, FL 32616. Notice is given pursuant to Section 286.0105, Florida Statutes, that, in order to appeal any decision made at the public hearing, you will need a record of the proceedings, and that, for such purpose, you may need to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence upon which the appeal is to be based. In accordance with the Americans with Disabilities Act, any persons with a disability requiring reasonable accommodation in order to participate in this meeting should call the City Clerk at (386) 418-6100 x 101 at least 48 hours prior to the public hearing.

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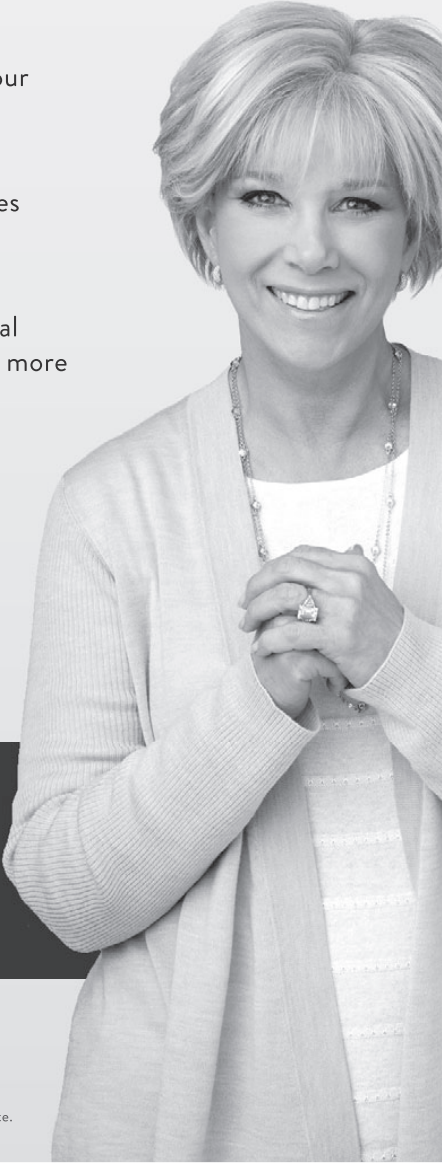
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