

Bill hiking malpractice cap gutted

Support looked weak in a second push to let patients sue for more.

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A bill allowing injured patients in Colorado to sue doctors for more money was gutted Monday, the second year in a row attempts to ease limits on malpractice awards have failed.

The watering down of House Bill 1344 came during a hearing of the House Judiciary Committee and frustrated the Colorado Trial Lawyers Association, which had been optimistic the restrictions would be lifted.

Under current law, awards for noneconomic — or "pain and suffering" — damages in medical malpractice lawsuits are capped at \$300,000. Total damages for medical malpractice are capped at \$1 million, though a judge can approve a higher award.

Trial lawyers argue that Colorado has one of the strictest caps for noneconomic damages in the nation, a limit that has not been increased in years.

The bill would have adjusted the cap upward to account for inflation since 1988. Then the bill would have required an inflationary adjustment every year.

But the cap-increasing language was clipped from the bill by the sponsor Rep. Christine Scanlan, D-Dillon, who said it was not possible to bring together doctors and lawyers for a compromise and she did not think there were enough votes in the House to pass the bill.

"We are unable to get there because we have some folks who quite seriously can't talk to each other," she said.

John Sadwith, executive director of the Colorado Trial Lawyers Association, said the group was "incredibly disappointed the bill was amended because an inflation-based adjustment to the cap is fundamentally fair."

A similar bill failed last year in the same committee amid insufficient support from Democrats.

What was left of the bill after Scanlan gutted it was a requirement that insurers get approval from the state's Division of Insurance before increasing malpractice premiums by more than 5 percent.

The committee approved the bill on a 7-4 vote, and it now moves to the House Appropriations Committee.

Edie Sonn, a lobbyist with the Colorado Medical Society, said the group was pleased that the caps language had been deleted but still opposed the bill for its insurance regulations.

"There isn't a problem with (malpractice insurance) rates now," Sonn said, adding that doctors were concerned the increased regulations would hurt competition among insurers and drive up costs.

Visually, the hearing was a repeat of last year's, with an audience of doctors in white coats and victims of medical malpractice in yellow T-shirts.

Victims of medical errors testified about their injuries and said \$300,000 for their pain and suffering was insulting.

Meanwhile doctors and insurers said that if caps were lifted, the costs of medical care would go up and physicians would leave the state, especially rural areas.

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