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Healey Plans Mass. Med Mal Reforms

Cites "Exorbitant" Premiums

BOSTON — Massachusetts Lt. Gov. Kerry Healey this week recommended "sweeping" reform to fix what she called a "broken" medical malpractice insurance system.

High on Healey's list of issues to tackle are "exorbitant" insurance premiums for doctors, as well as reductions in administrative costs and attorneys' fees. She cited a "crisis" in some medical specialties as a driving factor in filing legislation.

"When some of our best doctors are driven out of specialty fields like neurosurgery and OB/GYN because of insurance costs, it's a warning sign that our medical malpractice system is broken," said Healey in a prepared statement. "We need an improved system that is fair to both doctors and patients, that keeps high-risk specialties affordable and guarantees a higher percentage of any claims go to patients, instead of lawyers."

The legislation also includes measures to improve communication between doctors and their patients. Healey hopes to reduce litigation costs by resolving more cases before trial.

According to Healey, the number of medical malpractice awards dropped 32% since 2001, but the average award has increased by 41%. Of the typical award, she added, only 40% goes to the injured patient, with the rest paying attorneys.

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Mass. Lt. Gov. Kerry Healey

The result, according to Healey, is "extremely high" insurance rates that have risen 87% since 1999.

"We need to control the cost of liability insurance, so it doesn't prevent physicians from practicing medicine and ensures patients' access to timely care," Healey said.

Rates paid for specialties such as obstetrics, neurosurgery and orthopedic surgery are higher than in other New

England states, according to the lieutenant governor.

Doctors Approve

The Massachusetts Medical Society praised Healey's legislative initiative, saying it would alter a market that has a "negative impact on how physicians practice medicine."

"In the long run, we need to design a system that fairly and quickly compensates patients who suffer avoidable injuries, and supports patient safety improvement," said Kenneth R. Peelle, M.D., president of the Massachusetts Medical Society. "Lt. Governor Healey's legislation provides both short-term and long-term solutions for the problem."

Specifically, the MMS favors sections that of the bill that would tighten the tribunal system, requiring a higher standard of proof of negligence more difficult before a claim can proceed; a hard noneconomic damage cap of \$500,000; rules for juries being told about collateral sources (additional insurance) before awards; and reducing attorneys' fees from 25% for awards over \$500,000 to 15% for awards over \$600,000.

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The MMS also noted that Healey's legislation would create an "I'm sorry" law, allowing doctors to apologize for errors without it being admissible in court.

Peelle joined Healey during a press conference at Saints Memorial Medical Center in Lowell, Mass., to announce the legislative proposal.

"It's been shown time and again," said Dr. Peelle, "that when malpractice premiums are high, the physician workforce shrinks, and patients have less access to the care they need. The current medical liability system is not working for physicians and definitely

not for patients."

According to a recent report from Standard & Poor's, the medical malpractice insurance market is more stable now, with profitability, but still volatility.

S&P issued a "neutral" outlook for the medical liability segment of the industry. The uncertainty of tort reform efforts like Healey's proposal contributed to the "volatility," the ratings firm said.

"Underwriting results in 2006 will be strong based on increased rates, moderating claim trends, and improving reserve positions. As the industry is

turning a profit, capital has flowed back into the market and competition has picked up," analysts noted.

For medical malpractice insurers, "the next soft market cycle is probably around the corner," S&P warned.

The firm's report acknowledged that insurance rates rose steadily until 2005, when they began to increase at a more moderate pace or, in some cases, stayed flat or dropped slightly.

However, S&P observed that claims severity for the medical malpractice line is increasing, while frequency is relatively flat. ■