

Florida Medical Association FACT SHEET



EMERGENCY CARE SOVEREIGN IMMUNITY

HB by Rep.

SB by Sen.

FMA Contact: Jeff Scott (850) 251-2439

FMA Position

The FMA supports legislation that will provide sovereign immunity to physicians who provide mandated emergency services and care.

Background

In Florida, emergency medicine physicians, on-call physicians, hospitals and other attending professionals are mandated to provide emergency services and care, pursuant to Sections 395.12041 and 401.45 of the Florida Statutes, to any patient who suffers from an emergency medical condition. Unfortunately, emergency departments in the state of Florida are often unable to provide timely access to emergency care due to a lack of on-call specialists. Florida's decreasing pool of on-call specialists is largely the result of the harsh medical liability environment in the state as well as declining reimbursement. Physicians who provide emergency medical care are mandated to treat patients with whom they have neither an existing physician-patient relationship nor access to the patient's previous medical history, thereby complicating the split-second decision making required of these physicians. The open-ended liability inherent in treating emergency patients, many of whom pay little or nothing for their care, has caused a shortage of specialists who are willing to subject themselves to the long hours and late nights involved in being on-call.

In 2002, the Governor's Select Task Force on Healthcare Professional Liability Insurance recommended "...that to further the public purpose of providing emergency healthcare to citizens and visitors to Florida, healthcare professionals providing services in emergency rooms or trauma centers should be defined as agents of the state" and provided sovereign immunity under Section 768.28, Florida Statutes.

Conclusion

It is imperative that Florida pass this legislation to ensure that every hospital emergency room and trauma center in the state is adequately staffed so as to avoid needless delays in accessing quality medical care.

11/1/07