Limitations in Medical Payments – Myths v. Facts

FLORIDA JUSTICE ASSOCIATION

This bill **(SB 80)** dictates how a jury is to evaluate and award past and future medical expenses in all personal injury and wrongful death actions. Instead of simplifying litigation and making litigation less expensive, the bill will cause litigants to hire more expert witnesses, cause trials to last longer and will cost more money for all litigants and our Court system to try cases. This bill should not be supported!

Myth	Fact
Patient's lawyers want to admit the total amounts of a medical treatment into evidence to increase awards and line their own pockets.	When a patient's attorney asks for future damages, she uses an expert who calculates the cost without insurance setoffs because there is no way of knowing whether the patient is going to be able to retain insurance. In most cases, the patient has insurance through his/her job but they eventually lose that job because of the injury caused by the wrongdoer. Furthermore, Medicare and certain insurances have a right of subrogation which means they are entitled to be reimbursed from the jury's award. The only way for the jury to award a fair amount is by having this information.
Juries have gotten out of control in awarding damages in personal injury or wrongful death cases.	According to current law, a jury awards an amount that will 'fairly compensate' the victim for his/her loss or losses 'reasonably certain' in the future. The judge then holds a post-trial hearing and reduces the amounts by what has already been paid AND can even reduce the amount if it appears to be more than the patient needs.
This legislation will make trials less expensive.	No, it will actually do the opposite by making trials longer and increasing the need for experts which drives up costs and clogs the court system.
This bill will stop the fraud of inflated claims.	In short, this isn't about fraud. It's about slashing the amounts that at-fault defendants have to pay after causing an injury. A patient has to support her claim with evidence and a judge has the power to reduce the award.
Awards should only be limited to reasonable costs that insurance would actually pay.	By limiting awards for outstanding balances and future medical costs, the bill leaves the patient exposed to the possibility of financial calamity. This is especially so if the patient loses her health insurance in the future. "Customary amounts" may still be far lower than what a provider expects to be paid. A doctor has every right to sue the injured patient for his/her rendered services that were unpaid. The patient has a contractual obligation to the doctor.
The amounts that are "Customarily accepted" are easily defined in any geographic area.	No chart or list exists for what these amounts are. A jury will be expected to determine this. Both plaintiff's and defendant's counsel will have to spend more money on experts who will testify about what they believe the customarily accepted amount is.