

Florida courts take up two tort reform ballot measures

Meanwhile, a physician-supported constitutional amendment that limits how much lawyers can collect has not been challenged.

By Tanya Albert, AMNews staff. Jan. 17, 2005.

As Florida physicians settle into the new year, it is still not clear exactly how ballot issues that allow patients to see reports involving "adverse incidents" and create a "three strikes" rule against physicians ultimately will shake out. Doctors in the state oppose both measures.

"There is still a lot of uncertainty," said Bill Bell, the Florida Hospital Assn.'s general counsel. "The amendments are very broad and very vague. We still need guidance from the courts and Legislature before we can go forward."

ADVERTISEMENT

The courts have just begun to consider the legal challenges against the amendments, which were passed in last November's elections.

Leon County Circuit Judge Jonathan Sjostrom in December 2004 rejected the FHA's attempt to try to temporarily halt the measure that says that hospitals have to make information related to "adverse incidents" available. Included in this category are peer review documents.

The judge said questions on how the constitutional amendment would work have to be answered as individual legal cases arise. The FHA appealed the ruling and in the meantime expects that other peer review laws will shield the information.

"There are protections from being compelled to testify in court about peer review and laws protecting the confidentiality of peer review," Bell said.

Physicians and hospitals are looking to the Florida Legislature to clarify how strikes would be counted against physicians under the constitutional amendment that calls for taking away a doctor's license if that physician has three strikes against him or her.