


Rising malpractice insurance costs are beginning

to make retirement only option for some physicians|A lot of physicians my age have moved up their retirement date, he said. I would have easily work

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MARIETTA - After 24 years practicing general surgery at WellStar Cobb Hospital in Austell, Dr. Don Campbell plans to call it quits.

The 54 year-old physician says he will retire in two weeks, largely because of the rising cost of medical malpractice insurance that he and other surgeons are now forced to pay. Campbell now pays \$68,000 a year for up to \$2 million in insurance coverage per year - more than four times what he paid four years ago for half the coverage. "A lot of physicians my age have moved up their retirement date," he said. "I would have easily worked well into my 60s if things had been more predictable."

Campbell said he has been sued for malpractice four times, three of which were dismissed. The fourth suit, which involved Campbell and another doctor, was settled out of court for more than \$350,000.

As recently as 2000, Campbell said, he paid just \$19,000 for up to \$4 million of annual liability coverage. Increased insurance costs, he said, have forced him to reduce the staff at his surgical practice from eight full-time workers to six, eliminate one part-time position and cut into the incomes of the three surgeons who work at the practice.

Fees charged to patients can't be increased to make up for higher costs, Campbell said, because those fees are determined by contracts negotiated with insurance companies.

Georgia is now one of 17 states classified by the American Medical Association as a "crisis state," based on the number of medical malpractice suits filed and the rising cost of doctor's liability insurance.

In some rural parts of the state, the situation has left some areas without local obstetricians, neurosurgeons or other doctors who practice in high-risk medical specialties. While Cobb and other urban areas likely will never suffer this same type of doctor shortage, Campbell and other physicians say the situation has hindered their ability to recruit top-quality younger doctors to Georgia to practice.

"There's competition from other parts of the country where costs are not as high," Campbell said. "Why come to Georgia when you can go to Tennessee where the situation isn't so bad?"

Efforts were made earlier this year by Georgia legislators to place a \$250,000 limit on the amount "pain and suffering" expenses a patient can receive in a malpractice suit above and beyond money received for medical expenses. The effort failed to receive legislative approval before the General Assembly concluded this year's session in April.

Tort reform has even become an issue in Georgia's 6th District U.S. Congressional race. State

Sens. Chuck Clay (R-Marietta) and Tom Price (R-Roswell) - both competing in the July 20 primary election for the U.S. House seat that includes most of east and north Cobb - have come down on opposite sides of the proposed reforms and have addressed the issue in previous debates.

Price, an orthopedic surgeon, co-sponsored the legislation in the Georgia General Assembly earlier this year that would have placed a cap on non-economic damages in medical malpractice suits.

Clay, an attorney, has been critical of such caps on court settlements.

Matt Flournoy, a personal injury attorney who practices in Marietta, said he thinks doctors have good reason to be upset with the current situation, but adds that placing caps on financial settlements is not the answer.

"The reason that there is a crisis is that the insurance companies that issue medical malpractice policies have increased their premiums much higher than is necessary," he said. "I think the insurance companies are using the doctors in an attempt to pass unnecessary and ill-advised tort reform. What we need is insurance reform."

Flournoy said he takes offense to terms like "jackpot justice" and "frivolous lawsuits" used by those advocating tort reform. He said he turns down about 98 percent of potential clients wishing to file medical malpractice suits and only accepts those he feels have strong merit and are winnable.

The reason, Flournoy said, is that plaintiff's attorneys are paid on contingency, meaning their payment comes as a percentage of damages awarded by the court. If the court rules against the client, the attorney receives nothing.

Attorneys are also expected to pay out of pocket expenses related to proving the alleged medical malpractice took place, such as hiring medical experts to testify in court - expenses Flournoy said generally run him at least \$50,000.

"Unless it's a very strong case, it's a waste of time and resources and will fail," he said.

Placing caps on pain and suffering judgments is unfair, Flournoy said, because most of the cases he handles involve some sort of long-term, permanent damage that will require expenses above and beyond basic medical cost.

In one malpractice case handled by Flournoy, a newborn baby developed cerebral palsy due to brain damage resulting from a lack of oxygen to the brain immediately before birth. The attorney said the damage happened because doctors waited too long to perform an emergency cesarean even though monitors showed the baby to be in distress for several hours beforehand.

"Otherwise, the baby should have and could have been born fully healthy," he said.

The child, who is now 4, is confined to a wheelchair and will require special and costly care for the rest of her life - expenses that would only be covered by some sort of financial judgment above and beyond medical costs related to complications from the child's birth.

Marietta attorney Bill Gentry, who also handles medical malpractice cases, said the recent jump in doctors' insurance premiums has resulted in part to the poor economy during the last several years.

"Insurance companies make a lot of money from investments, and when the interest rates dropped, they start to look for other ways to cut costs," he said.