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We Defeated 2025 HB 6017— But the Tort Reform Battle Continues

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The defense bar is a critical advocate at the Florida Legislature. That was proven again in the 2025 regular legislative session, as the defense bar, acting in concert with numerous other stakeholders, successfully defeated legislation, 2025 HB 6017, that would have significantly expanded medical malpractice liability and further jeopardized the stability of the state's healthcare system. That legislation passed the Florida Legislature but thankfully met Governor DeSantis's veto pen in May 2025. Legislative leadership, however, has pledged to bring the same legislation or legislation like it back in 2026.

This example underscores the importance of defense counsel taking on an active role in the legislative arena. Given their firsthand experience navigating the complexities of the civil justice system, defense attorneys are uniquely positioned to inform and influence legislative reforms. Now more than ever, the defense bar must move beyond the courtroom and into the legislative arena, ensuring that the voices of those who understand the system best are heard and using their expertise to guide the development of fair and effective laws on behalf of their clients.

This article recounts the history that led to 2025 HB 6017 before turning to the legislation's winding road through the Legislature, ending with Governor DeSantis's veto pen. But the defense bar's work is not done, as similar efforts will return next legislative session.

Background on Florida's Medical Negligence Liability Laws

For many years, Florida suffered medical negligence claims that produced huge windfalls for trial attorneys without fairly resolving fault or compensating victims. In the 1970s and 1980s, the Florida Legislature passed several tort reform packages that slowly stopped litigants from taking advantage of the court system.[1]

Meanwhile, the Legislature saw fit to expand wrongful death liability, but did so in a careful way that would not exacerbate the existing medical negligence insurance crisis, illustrated by the enactment of section 768.21, Florida Statutes. Prior to 1990 in Florida, parents had no common law or statutory right to recover noneconomic damages for pain and suffering, grief, or emotional loss associated with the wrongful death of their adult child.[2] Likewise, adult children had no common law or statutory right to recover damages for pain and suffering, grief, or emotional loss for the wrongful death of their parent.[3]

In 1990, the Florida Legislature chose to expand the Wrongful Death Act to allow recovery of noneconomic damages by parents and children in these actions through section 768.21, Florida Statutes.[4] At the same time, the Legislature chose to impose an exception, prohibiting such damages where the wrongful death arose from a claim of medical negligence.[5] This exception to expanded wrongful death liability was a prudent legislative decision, as Florida was and continues to be in a medical malpractice crisis, with Florida possessing some of the highest medical malpractice insurance premiums in the country.[6] Without the exception for wrongful death claims in the medical malpractice context, the expansion of liability under the Wrongful Death Act would have disproportionately impacted the healthcare community. Hence, the Legislature's approach was well-founded.

As the medical negligence insurance crisis continued, additional tort reforms were introduced in 2003, including, among others, limitations on noneconomic damages. Under these reforms, noneconomic damages were limited to $500,000 in most cases, with awards of $1.5 million permitted in some cases depending on the parties involved.[7] While these statutory caps are still on the books, they are largely unenforceable under Florida Supreme Court decisions striking them as unconstitutional.[8]

Florida's medical malpractice law as it stands today — which does not allow adult children or the parents of adult children decedents to recover noneconomic damages in medical malpractice wrongful death actions — has already led to a significant number of exorbitant, "nuclear" verdicts, often propelled by large noneconomic damages awards.[9] As one recent example, in April 2025, an Orange County jury found in favor of a patient's estate on a claim that Orlando Health, Inc. failed to transfer the patient quickly enough to a different hospital for treatment of a heart attack. The jury delivered a $45 million verdict against Orlando Health, Inc., encompassing $15 million in noneconomic damages to each of the patient's three survivors.[10]

In 2025, the Legislature Sought to Repeal the Longstanding Noneconomic Damages Exception in Section 768.21(8), Threatening to Exacerbate an Existing Healthcare Crisis in Florida

In the meantime, there has been a growing movement to eliminate the exception for noneconomic damages liability in section 768.21(8), sometimes dubbed the "free

kill" law.[11] That movement led to 2025 HB 6017 and its companion in the Senate, SB 734. Both bills as proposed would have repealed subsection (8) of section 768.21, Florida Statutes, which presently states that certain noneconomic damages recoverable by adult children and parents in other negligence actions cannot be recovered in medical negligence actions. If subsection (8) had been repealed, in cases where a wrongful death was occasioned by medical negligence, the decedent's adult children could recover noneconomic damages if there was no surviving spouse, and the parents of an adult decedent could recover noneconomic damages if there was no surviving spouse or surviving children.

While this legislation was proposed with good intent, it came at too great a cost. Absent the noneconomic damages cap, the expansion of eligible claimants would lead to more medical negligence lawsuits filed and higher damages payouts, which would in turn lead to increased costs and limited access for health care. When a hospital or provider is forced to pay excessive claims, it must make up those costs elsewhere, such as in higher costs for care. Ultimately, the average patient foots the bill.

Defense Attorneys, Healthcare Providers, Risk Managers, and Other Stakeholders Came Together to Oppose the Legislation

Notwithstanding those concerns, the legislation proposing to repeal section 768.21(8) garnered significant bipartisan support. Thus, opposing this well-meaning but ill-conceived legislation took a significant amount of coordination and determination from a broad coalition of stakeholders. That meant the Legislature heard opposition to the legislation from numerous affected interested parties, including healthcare providers, hospital risk managers, insurance brokers, and, importantly, the attorneys who represent hospitals and physicians in these types of actions. All these stakeholders expressed concerns that the legislation would exacerbate Florida's present healthcare crisis, without accomplishing the positive outcomes the legislation was intended to promote.

For example, the Legislature heard from Dr. Mary Ramirez, a retired OB/GYN with 60 years of experience, who testified regarding her personal experience of the impact of laws which increased medical malpractice liability in Puerto Rico; she watched many of her colleagues leave the practice of medicine as a result of such laws.[12] Registered nurse Shelley Knick, who works in hospital risk management, expressed concern that, while the legislation is well-intentioned, it is misdirected, and would likely lead to at least 500 additional wrongful death lawsuits per year — approximately 10 extra lawsuits per week.[13] Judy Davis, the risk manager for Tallahassee Memorial Hospital, also spoke in opposition to the legislation.[14] As a risk manager, Ms. Davis knows firsthand the devastating impact medical negligence can have on families but explained that her hospital is already feeling the effects of increased medical malpractice insurance costs, including a 40% increase in premiums over the last decade. Kathryn Magar, the Vice President of Claims and Insurance for HealthFirst in Brevard County, also spoke in opposition to the legislation based on her experiences managing the risk for her hospital system and relayed that the legislation would not only increase the cost of insurance premiums but would also make it difficult for her to obtain insurance for a large healthcare system like hers.[15] Lawyer and insurance broker Vivian Gallo of Marsh McLennan testified in opposition to the legislation, reporting that a medical malpractice insurance crisis is ongoing, with hospital medical malpractice insurance premiums steadily increasing, and noted that 13 insurance carriers have stopped writing medical malpractice insurance coverage for hospitals in the state.[16] Although this testimony did not ultimately sway the Legislature, it was still important to create a record for why the legislation would have ill effects.

Critical testimony also came from lawyers who regularly defend physicians and hospitals from medical malpractice claims. Andy Bolin of the Bolin Law Group is a Board Certified Trial Lawyer representing healthcare providers across the state. He appeared before the committees of both the House and Senate to express his concerns with the legislation, noting that it would create hundreds of additional medical malpractice cases per year and negatively impact the state's already growing physician shortage.[17] His partner, Mark Berlick, also appeared before the Legislature to relay his concerns with the legislation based on his years of experience representing healthcare providers in medical malpractice cases.[18]

Amendments Would Have Mitigated the Legislation's Significant Adverse Consequences, But Were Unsuccessful

Two amendments were put forward late in the 2025 session that might have mitigated some of the negative effects of HB 6017, one by Senator Gayle Harrell and one by Senator Clay Yarborough. These compromises would have supported grieving families and allowed them to recover meaningful compensation, while at the same time providing certainty for consumers and businesses. Unfortunately, neither effort succeeded.

Senator Harrell's proposed amendment would have replaced the statutory aggregate caps on noneconomic damages with per-claimant caps.[19] In the first iteration, a medical negligence claimant would be limited to $500,000 in noneconomic damages from practitioners (e.g., doctors and nurses) and $750,000 in noneconomic damages from nonpractitioners (e.g., hospitals).[20] Similar per-claimant caps would exist for claims involving emergency services or care provided to Medicaid recipients.[21] Senator Harrell proposed further amending her amendment to increase the per-claimant caps to $750,000 (practitioners) and $1.125 million (nonpractitioners). The proposed amended legislation would end the longstanding bar on the recovery of noneconomic damages by certain survivors in medical malpractice cases; at the same time, it would counter

downstream effects from the legislation's increased liability by imposing reasonable, predictable limits on recovery of noneconomic damages by all claimants.

As Senator Harrell explained in debate on the Senate floor on May 1, 2025, Florida already has the highest medical malpractice insurance premiums across the country and is facing a physician shortage, particularly in critical specialties like obstetrics/gynecology, with the state needing almost 10,000 additional practitioners by 2035.[22] She also noted that numerous states have similar damages caps, including California, and benefit from lower medical malpractice insurance costs. Even though the amendment she had drafted would still ensure families can sue for noneconomic damages, Senator Harrell recounted that she had been the target of attack ads for her position on the legislation, including one large billboard on U.S. 1 in Martin County claiming that Senator Harrell "PUT[S] PROFITS BEFORE PEOPLE." Notwithstanding these personal attacks, Senator Harrell confirmed that she could only support the legislation with limits on the expansive liability to protect Florida's healthcare system. Ultimately, however, Senator Harrell withdrew the proposed amendment before it was considered, and those limits did not materialize.

On April 30, 2025, Senator Yarborough, the sponsor of HB 6017's companion in the Senate, presented Amendment 270612 to HB 6017, which would have also offered some mitigation to HB 6017's negative effects.[24] This amendment would have paired the expansion of liability with a cap on noneconomic damages in all wrongful death actions arising from medical negligence of $1 million per incident.[25] As Senator Yarborough explained when presenting the amendment on the Senate floor, the amendment was "consistent with [his] goal to increase the accountability of medical providers and provide justice to the families of the survivors of individuals who die as the result of all forms of negligence."[26] The amendment failed by a single vote—19 nays to 18 yeas.

Ultimately, HB 6017 passed the Senate, by vote of 104 to 6, without any limitations on the expansive liability it threatened.

Governor DeSantis Wisely Vetoed HB 6017

The Legislature sent HB 6017 to Governor DeSantis's desk on May 23, 2025; Governor DeSantis vetoed it on May 29, 2025.[27] Governor DeSantis explained in his veto letter that Florida's "rapidly growing and aging population" requires "attracting top healthcare providers and . . . maintaining the affordability and availability of healthcare."[28] HB 6017, which "does not include safeguards like caps on damages and attorney's fees," would not "deter physicians from engaging in malpractice—but instead w[ould] impose costs on Floridians."[29] Governor DeSantis signaled that "[a]n acceptable bill would include regulatory measures that further deter physicians from engaging in malpractice and ensure swift accountability," and "encourage[d] any future legislation to include regulatory reforms and these safeguards, striking a balance between providing relief and accountability, while preserving quality access to care for Floridians."[30]

Governor DeSantis announced his veto at a press conference in Southwest Florida, flanked by Florida Surgeon General Joseph Lapado, Lee Health Systems President and CEO Dr. Lawrence Antonucci, and Andy Bolin, one of the defense attorneys who had spoken in opposition to the legislation before the Legislature based on his experience representing the healthcare providers targeted by medical malpractice actions.[31] At the press conference, "Bolin acknowledged that malpractice exists, but he said better professional regulation is the answer. 'My clients aren't interested in seeing bad doctors protected.'"[32]

The Legislature did not override Governor DeSantis's veto of the legislation.[33]

The Battle to Defeat HB 6017 Was Ultimately Won, But the War to Defend and Improve Medical Malpractice Tort Reform Continues

Governor DeSantis's veto ends only one fight in an ongoing battle. House Speaker Daniel Perez has already promised to bring the legislation back next year.[34] As for whether he would entertain the notion of pairing damages caps with repeal of section 768.21(8), he indicated that caps were not historically something he believes in but he would be "open to the conversation."[35] Defense attorneys who regularly represent hospitals and healthcare providers in medical negligence actions must take heed of his promise and ensure any further medical malpractice reform, including any repeal of section 768.21(8), is paired with reasonable limits on damages.

The effort to defeat HB 6017 demonstrates that meaningful change in our civil justice system depends on effectively educating legislators and the executive branch about both existing challenges and the broader consequences of proposed laws. Nowhere is this more vital than in the realm of medical negligence litigation. Defense attorneys who routinely represent hospitals and practitioners must go beyond advising their clients on pending legislative changes — they should also be prepared to engage directly with lawmakers at the Capitol, articulating how specific legislation will affect their practice and their clients. Only through such active involvement can the defense bar help achieve meaningful and substantive tort reform.

ABOUT THE AUTHOR

William W. Large is the president of the Florida Justice Reform Institute, an organization dedicated to restoring fairness and personal responsibility to Florida's civil justice system. Under his leadership, FJRI has delivered notable successes on numerous and complex legislative, regulatory, and judicial issues. Prior to serving as president, Mr. Large served

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[1] *See*, *e.g.*, B. Richard Young, Comment, *Medical Malpractice in Florida: Prescription for Change*, 10 Fla. St. U. L. Rev. 593 (1983) (describing conditions that led to the medical malpractice crisis in Florida and the legislation passed in the 1970s and early 1980s in an effort to address those conditions); Thomas Horenkamp, Comment, *The New Florida Medical Malpractice Legislation and Its Likely Constitutional Challenges*, 58 U. Miami L. Rev. 1285, 1287-89 (2004) (providing a brief history of medical malpractice reform in Florida in the 1970s through the 1990s).

[2] *See In re Guardianship of Schiavo*, 792 So. 2d 551, 562 n.11 (Fla. 2d DCA 2001) ("We note that parents generally have no common law or statutory right to recover damages for pain and suffering, grief, or emotional loss in the event that their married, adult daughter is the victim of a wrongful death." (citing § 768.21(4), Fla. Stat. (2000)).

[3] *See Weimer v. Wolf*, 641 So. 2d 480, 481 (Fla. 2d DCA 1994).

[4] *See* Ch. 90-14, § 2, at 38, Laws of Fla.

[5] *Id.* § 2, at 38-39.

[6] Fla. Hosp. Ass'n, *Florida's Medical Malpractice Crisis*, https://fha.org/commonUploaded%20files/FHA/LegislativePriorities/Medical_Malpractice.pdf (last visited July 11, 2025).

[7] *See* Ch. 2003-416, § 54, at 69-72, Laws of Fla. (creating § 766.118, Fla. Stat.).

[8] *See Estate of McCall v. United States*, 134 So. 3d 894 (Fla. 2014); *N. Broward Hosp. Dist. v. Kalitan*, 219 So. 3d 49 (Fla. 2017).

[9] *See, e.g., Crohan v. Furman*, Case No. 2019-CA-009248 (Fla. 13th Cir. Ct. 2022) (jury awarded a staggering $50 million in noneconomic damages, on top of $18 million in economic damages); *Fernandez v. Baptist Health Med. Grp. Orthopedics, LLC*, Case No. 2018-CA-013104 (Fla. 11th Cir. Ct. 2020) (alleged medical malpractice led to an eye-popping $30 million noneconomic damages verdict for the decedent's husband).

[10] *Sada v. Orlando Health, Inc.*, Case No. 2021-CA-010737-0 (Fla. 9th Cir. Ct. 2025); see also Carolina Bolado, *Orlando Health Hit with $45M Verdict Over Heart Attack Death*, Law 360 (Apr. 16, 2025), https://www.law360.com/articles/2326532?sidebar=true (last visited July 11, 2025).

[11] *See* Jenna Bourne & Libby Hendren, *Are you over 25? Unmarried? No kids under 25? In Florida, you're a 'free kill*,' Tampa Bay 10 (Dec. 4, 2023), https://www.wtsp.com/article/news/investigations/10-investigates/whats-brewing/florida-free-kill law-grief-justice/67-b0167674-ff6d-4995-8a09-26336d66979d (last visited July 11, 2025).

[12] *See* Fla. S. Comm. on Judiciary, recording of proceedings, at 12:22 (Mar. 4, 2025, 4:00 PM), https://www.flsenate.gov/media/videoplayer?EventID=1_ky7x6qg-202503041600&Redirect=true (last visited July 11, 2025) (discussing 2025 SB 734).

[13] *See* Fla. S. Comm. on Judiciary, recording of proceedings, at 55:22 (Mar. 4, 2025, 4:00 PM), https://www.flsenate.gov/media/videoplayer?EventID=1_ky7x6qg-202503041600&Redirect=true (last visited July 11, 2025) (discussing 2025 SB 734); Fla. H.R. Judiciary Comm., recording of proceedings, at 1:03:50 (Mar. 20, 2025, 8:00 AM) https://thefloridachannel.org/videos/3-20-25-house-judciary-committee/ (last visited July 11, 2025) (discussing 2025 HB 6017).

[14] Fla. S. Appropriations Comm. on Health & Hum. Servs., recording of proceedings, at 57:54 (Mar. 18, 2025, 9:30 AM) https://www.flsenate.gov/media/videplayer?EventID=1_nty0d3lq-202503180930&Redirect=true (last visited July 11, 2025) (discussing 2025 SB 734); Fla. H.R. Judiciary Comm., recording of proceedings, at 1:07:10 (Mar. 20, 2025, 8:00 AM) https://thefloridachannel.org videos/3-20-25-house-judiciary-committee/ (last visited July 11, 2025) (discussing 2025 HB 6017).

[15] *See, e.g.*, Fla. S. Comm. on Judiciary, recording of proceedings, at 1:01:36 (Mar. 4, 2025, 4:00 PM), https://www.flsenate.gov/media/videoplayer?EventID=1ky7xx6qg-202503041600&Redirect=true (last visited July 11, 2025) (discussing 2025 SB 734); Fla. H.R. Judiciary Comm., Civil Justice & Claims Subcomm., recording of proceedings, at 40:15 (Mar. 5, 2025, 1:00 PM) https://thefloridachannel.org/videos/3-5-25-house-civil-justice-claims-subcommittee/ (last visited July 11, 2025) (discussing 2025 HB 6017).

[16] Fla. H.R. Judiciary Comm., recording of proceedings, at 1:13:28 (Mar. 20, 2025, 8:00 AM) https://thefloridachannel.org/videos/3-20-25-house-judiciary-committee/ (last visited July 11, 2025) (discussing 2025 HB 6017).

[17] See, e.g., Fla. S. Comm. Judiciary, recording of proceedings, at 48:58 (Mar. 4, 2025, 4:00 PM), https://www.flsenate.gov/media/videoplayer?EventID=1_ky7x6qg-202503041600&Redirect=true (last visited July 11, 2025) (discussing 2025 SB 734); Fla. S. Appropriations Comm. on Health & Hum. Servs., recordings of proceedings, at 1:01:03 (Mar. 18, 2025, 9:30 AM) https://www.flsenate.gov/media videoplayer?EventID=1_nty0d3lq-202503180930&Redirect=true (last visited July 11, 2025) (discussing 2025 SB 734); Fla. S. Comm. on Rules, recording of proceedings, at 1:14:24 (Mar. 26, 2025, 9:00 AM) https://www.flsenate.gov/media videoplayer?EventID=1_zc8d1g0v-202503260900&Redirect=true (last visited July 11, 2025) (discussing 2025 SB 734).

[18] Fla. H.R. Judiciary Comm., recording of proceedings, at 1:28:10 (Mar. 20, 2025, 8:00 AM) https://thefloridachannel.org/videos/3-20-25-house-judiciary-committee/ (last visited July 11, 2025) (discussing 2025 HB 6017).

[19] See Sen. Amend. No. 485034 to HB 6017 (filed Apr. 27, 2025, withdrawn Apr. 30, 2025), https://www.flhouse.gov/Sections/Documents/loaddoc.aspx FileName=485034.docx&DocumentType=Amendments&BillNumber=6017& Session=2025 (last visited July 11, 2025).

[20] *Id.* at 3-4.

[21] *Id.* at 5-7.

[22] Sen. Amend. No. 401348 to Sen. Amend. No. 485034 to HB 6017, at 1-2 (filed Apr. 29, 2025, withdrawn Apr. 30, 2025), https://www.flhouse.gov/Sections Documents/loaddoc.aspx?FileName=401348.docx&DocumentType= Amendments&BillNumber=6017&Session=2025 (last visited July 11, 2025).

[23] Fla. S. Floor Debate, recording of proceedings, at 2:38:24 (May 1, 2025, 11:00 AM), https://www.flhouse.gov/VideoPlayer.aspx?eventID=10431 (last visited July 11, 2025) (discussing 2025 HB 6017).

[24] *See* Sen. Amend. No. 270612 to HB 6017 (filed Apr. 30, 2025, withdrawn Apr. 30, 2025), https://www.flhouse.gov/Sections/Documents/loaddoc.aspx FileName=270612.docx&DocumentType=Amendments&BillNumber=6017& Session=2025 (last visited July 11, 2025).

[25] *Id.* at 8.

[26] Fla. S. Floor Debate, recording of proceedings, at 4:15:53 (Apr. 30, 2025, 10:00 AM), https://www.flsenate.gov/media/VideoPlayer?EventID=1_nt0d3lq-202504301000&Redirect=true (last visited July 11, 2025) (discussing 2025 HB 6017).

[27] *See* Press Release, Exec. Office of the Gov., Governor Ron DeSantis Issues Veto to Safeguard Florida Against Misuse of Medical Malpractice Claims (May 29, 2025), https://www.flgov.com/eog/news/press/2025/governor-ron-desantis-issues-veto-safeguard-florida-against-misuse-medical (last visited July 11, 2025).

[28] Veto of Fla. HB 6017 (2025) (letter from Gov. DeSantis to Speaker Perez, May 29, 2025), https://flgov.com/eog/sites/default/files/shared/2025/05/Veto%2Letter_HB%206017.pdf (last visited July 11, 2025).

[29] *Id.*

[30] *Id.*

[31] Jim Ash, *Governor Vetoes Wrongful Death Legislation*, Florida Bar News (May 30, 2025), https://www.floridabar.org/the-florida-bar-news/governor-vetoes-wrongful-death-legislation/ (last visited July 11, 2025).

[32] *Id.*

[33] Jackie Llanos, *House won't override Gov. DeSantis' 'free kill' repeal veto*, Florida Phoenix (June 6, 2025), https://floridapolitics.com/archives/742000-house-wont override-gov-desantis-free-kill-repeal-veto/ (last visited July 11, 2025).

[34] Fla. H.R., recording of press availability with Speaker Perez, at 8:26 (June 5, 2025), https://thefloridachannel.org/videos/6-5-25-press-availability-with-house-speaker-daniel-perez/ (last visited July 11, 2025).

[35] *See id.* at 9:30.