

 Las Vegas Sun

Where I Stand — Mike O'Callaghan: Legislature now must act

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NOW THAT WE HAVE SURVIVED the temporary closure of the UMC trauma unit, because of the high price of medical malpractice insurance, it's time to do something constructive. Our doctors were looking good in the eyes of the press and people before they tripped over their public relations feet and caused the closure. Since then I've heard a dozen "good" reasons they had to take that destructive action and two dozen better reasons why my critical column was unfair to the doctors. The least impressive reason given for attacking my column was that I "just didn't understand or know the facts." Baloney, even I could figure out the trauma unit was closed, and in my simple logic that action was dead wrong. No more excuses, please.

Nobody should believe that all of the trauma unit doctors are bad people or don't have deep ties to this community. Gus Flangas, a Nevada native who has few, if any, peers as a soldier and attorney, called and asked for a meeting. He brought with him two trauma doctors who are also local high school and Nevada Medical School graduates. Dr. Michael Daubs and Dr. Robert McBeath both are respected in their medical fields of orthopedics and urology, respectively. Gus has a personal relationship with both doctors, who attended medical school with his brother, Dr. Gary Flangas.

I don't believe they came to change my negative opinion about the trauma unit closure. If that was their goal, they failed. Nevertheless, it was a long discussion about trauma medicine, insurance costs and the laws regulating all of them. I was impressed with their sincerity and dedication to provide good medical services for Southern Nevada. Incidentally, trial lawyer leader Bill Bradley of Reno, also a high-quality individual with great skill, has been impressive with his deep feelings and personal concern about the welfare of injured patients.

Gov. Kenny Guinn has called a special session of the Legislature for next week, which is supposed to solve some of the exceptionally high costs of medical malpractice insurance. By now the trial lawyers and doctors must realize they have fired all of their ammunition at each other, while the insurance companies have quietly sat by licking their chops and planning to make even more money. The legislators, to be fair, will have to take a close look at the insurance business in even more areas than the field of medicine. They make tons of money in other parts of modern life, government and business.

Our legislators have a tough task ahead of them because of the complexity of the issues. This isn't going to be a two- or three-day session, and simply adopting, warts and all, the Medical Injury Compensation Reform Act first passed by California in 1975 isn't the answer. Neither will a patchwork solution that will last until the 2003 Legislature goes into session meet the needs of doctors, lawyers or patients. They must come up with a solid solution. Fortunately, Nevada has a most competent Legislative Counsel Bureau, headed by Lorne Malkiewich, to assist the legislators in their lawmaking

process.

California isn't the only state with a medical injury compensation plan. Several other states have had varying success with their plans and many have higher amounts of money allowed for non-economic damages. Some also have different sliding scales for lawyer fees and allowances for collateral source payments. Also to be considered will be the matter of interest an injury award will accumulate from the time it occurred until it's finally paid.

What about an injury a patient in a nursing facility receives? Does a medical specialist come under this law? If a doctor makes a gross error, which is rare, and removes the wrong limb, will the non-economic payments come under the medical malpractice law or will the patient be able to make his claim under common law battery? Will a cap affect a remaining spouse and children who have lost the comfort and companionship of an injured patient?

All of the above questions have been considered by courts in other states. So it's not going to be easy to just grab the law of a single state, pass it and go home in a couple of days.

Large numbers of our doctors can no longer be expected to pay the outrageous cost of medical malpractice insurance. Reasonable statutes protecting both the doctors and the patients must be forthcoming before our legislators return home. This isn't mission impossible, but it won't be easy and it won't be accomplished without much differing testimony and long days of work.

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