

PANELS

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lawsuits," he said. Attorneys will be compensated \$250 per day or a maximum of \$2,000 per case.

"Over the course of several months I would expect the chairperson to spend eight days on a case," Feeley said.

He said participating on the panels would provide seasoned attorneys with more mediation experience and younger attorneys a chance to meet physicians and perform a public service.

Medical providers for the panels will be selected from a list obtained from the state's licensing bureaus. The plaintiff and defendant will be given a list of six physicians, and the two sides will alternate striking possible panelists until two remain. The two doctors then choose the third member of their team.

Panels will have nine months to review cases and render an opinion, with the results admissible in court, but not binding. They can render one of three opinions:

■ A medical provider violated standard of care and that action was the proximate cause of injury.

■ The provider violated standard of care, but it was not the proximate cause of injury.

■ Standard of care was not violated.

Of KCHFS' role in the process, Feeley said, "Our job is to make sure the law passed by the legislature is put into effect and properly run. It's not our position to make a determination as to the need for this legislation."

However, there is debate as to that need.

The bill creating the panels passed the Senate, 25-11, on March 3. It passed the House, 51-45. Both votes largely followed party lines — Republicans in favor, Democrats mostly opposed.

During his December visit to Paducah to meet with Senate leadership, Gov. Matt Bevin listed tort reform among his top legislative priorities for the 2017 session. He supported and signed



Feely



Carroll



Straub



McMurry

the review panel legislation.

Senator Danny Carroll, R-Paducah, co-sponsored the bill.

"Kentucky has the reputation of being a very litigious state, and we see this as a way to deal with frivolous lawsuits," said Carroll, adding that he expects the law will make it easier for health care providers to attract new physicians.

"I think it will be a good thing for both parties and believe this will actually expedite cases."

Carroll said the panels should reduce rampant use of "expert" witnesses paid to support a point of view.

But attorney William McMurry, a Paducah native, head of his own Louisville firm and past American Board of Professional Liability Attorneys president, disagrees.

"There has never been

a malpractice crisis in Kentucky," McMurry said. "The only benefit to medical review panels is to slow things down."

"There are not a lot of medical negligence cases in Kentucky. Most medical malpractice cases already take three to four years because of their complexity. This will be an impediment to those who have been harmed by medical negligence."

Of the mostly GOP legislation, he said, "Some people don't listen to the facts, but to the hysteria."

Rick Straub, a partner at Whitlow, Roberts, Houston & Straub in Paducah, describes himself as "one of a handful of local attorneys who defend health care providers."

He's taking a wait-and-see approach to the review panels.

"Truly frivolous cases will be ruled out early," Straub said, "but very few plaintiff's lawyers file frivolous lawsuits now because it is so expensive."

He said doctors like to be judged by their peers, but said there are often disagreements about the correct physician actions.

"It's not always black and white," Straub said.

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