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## Med mal faces crucial vote in Senate

DAVE WHALEY , The Telegraph

**Sen. William Haine is confident that a bill placing caps on non-economic damages in medical malpractice cases will come to a vote on the full Senate floor -- if it passes out of committee today.**

Haine, D-Alton, is one of 10 members on the Senate Judiciary Committee that will be considering Senate Bill 150 today in Springfield. The bill is similar to one that Haine supported in the General Assembly last spring, but that bill failed to pass. Illinois is still searching for meaningful legislation to stem the exodus of doctors from the Metro East.

"I was told by the committee chairman (Sen. John Cullerton, D-Chicago) that it will likely come to a vote (today)," Haine said. "I'm going to vote for it to move the process along. I don't agree with everything in the bill, but it mirrors the bill we had last May."

The bill, introduced in February by Sen. David Luechtefeld, R-Okawville, and co-sponsored by Sen. Frank Watson, R-Greenville, places a cap of \$250,000 on non-economic damages in malpractice claims against doctors and a \$500,000 cap on claims against hospitals. Non-economic damages are those awarded for things such as "pain and suffering."

Last year's bill did not have caps included. The rest of the bill has similar wording about the qualifications for expert witnesses in malpractice cases. Doctors testifying in such cases must have a similar specialty to the defendant, according to the bill.

"What Sen. Watson is trying to drum into everyone is that this is not just a Metro East problem," said Patty Schuh, spokesman for Watson, the Senate Republican leader. "This is affecting the whole state.

"We've always thought that tackling this issue required a three-pronged approach -- from the legal, medical and insurance angles. All of them have to be dealt with in a comprehensive package."

From an insurance standpoint, the bill would call for the Department of Insurance to fine insurance companies for exceedingly high rates on malpractice policies.

Six positive votes from the Senate Judiciary Committee would get the vote to the Senate floor. Schuh said all four Republicans on the committee are prepared to vote for the bill. With Haine's support, only one other Democrat is needed.

"Traditionally, once a bill gets out of committee it is controlled by the sponsor," Schuh said. "So Sen. Luechtefeld should be able to present it to the full Senate. If the Senate leader (Emil Jones, D-Chicago) decides to go against that, then we'll have to see what happens."

The bill would still need to be approved by the Senate, then go through the same process in the House of Representatives, then be signed by Gov. Rod Blagojevich for it to become law. It is expected to face a severe test in the House, where Majority Leader Mike Madigan is already on record in opposition. It was Madigan who kept the bill from being voted upon late last year. And the governor has expressed opposition to caps on the grounds that they are unconstitutional.

"Anything less than (passage) won't keep doctors in Illinois," said Dr. Ed Ragsdale of Alton, a longtime Republican activist. "Missouri is going to pass a very good bill, and Illinois is going to be surrounded by states (including Wisconsin and Indiana) with much better tort reform laws."

The Alton area has lost 40 doctors because of the malpractice issue in recent years, while Madison and St. Clair counties have lost close to 160 physicians altogether in the last two years.

Ragsdale said he believes there are enough votes on the Senate and House floors to get the bill passed.

"We're counting on Sen. Haine and Sen. (James) Clayborne (of Belleville)," Ragsdale said. "This has been an uphill battle. We've lost all our neurosurgeons south of Springfield and it's even affecting those in Chicago."

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Democrats on the Senate Judiciary Committee are Cullerton, Haine, Clayborne, Don Harmon of Oak Park, Kwame Raoul of Chicago and Ira Silverstein of Chicago. Republicans on the committee are Kirk Dillard of Westmont, Edward Petka of Plainfield, Peter Roskam of Wheaton and Richard Winkel Jr. of Urbana.

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