

WITHDRAWN

1 Senators Shafer of the 48th, Price of the 56th, Balfour of the 9th and Mullis of the 53rd
2 offered the following amendment:

3 Amend the Senate Health and Human Services Committee substitute to HB 1028 by striking
4 lines 18 through 27 on page 16 and inserting in lieu thereof the following:

5 "each person. Except as provided in subsection (c) of this Code section, damages
6 apportioned by the trier of fact as provided in this Code section shall be the liability of each
7 person against whom they are awarded, shall not be a joint liability among the persons
8 liable, and shall not be subject to any right of contribution.

9 (c) If, in a case in which claims are brought against one or more physicians, nurses, or
10 other individual health care providers and against one or more hospitals or other health care
11 facilities, the trier of fact finds that the acts of multiple defendants, including at least one
12 hospital or other health care facility, contributed to the injury or death that is the subject
13 of the case and the trial court finds, following entry of judgment, that the portion of the
14 amount of the judgment allocated to an individual physician, nurse, or other individual
15 health care provider exceeds the limits of the applicable insurance coverage available to
16 such physician, nurse, or other individual health care provider, then the amount of the
17 judgment in excess of such insurance coverage shall be the joint liability of the hospitals
18 or other health care facilities found by the trier of fact to have contributed to the injury or
19 death that is the subject of the case to the extent of any unexhausted coverage available to
20 such hospitals or other health care facilities under any applicable liability insurance or
21 self-insurance plan.

22 (d) Notwithstanding the provisions of this Code section and any other provisions of law
23 which might be construed to the contrary, the plaintiff shall not be entitled to receive any
24 damages if the plaintiff is 50 percent or more responsible for the injury or damages
25 claimed.

26 (e) This Code section shall not affect venue provisions regarding joint actions.

27 (f) With respect to medical malpractice actions, this Code section shall control over any
28 conflicting provisions of Title 51 or any other law."