

ADOPTED

1 Senators Shafer of the 48th, Hamrick of the 30th, Hall of the 22nd and Hooks of the 14th
2 offered the following amendment:

3 Amend the Senate Health and Human Services Committee substitute to HB 1028 by inserting
4 after "actions;" on line 10 on page 1 "to provide for the degree of care expected of medical
5 professionals in an emergency room setting; to provide for the consideration by the jury or
6 other trier of fact of certain factors affecting such care in determining whether such degree
7 or standard of care was met;".

8 By striking line 27 on page 16 and inserting in lieu thereof the following:

9 "conflicting provisions of Title 51 or any other law.

10 **ARTICLE 4**

11 31-46-70.

12 (a) A person professing to practice surgery or the administering of medicine for
13 compensation must bring to the exercise of his or her profession a reasonable degree of
14 care and skill. The degree of care and skill required of a physician in an emergency room
15 setting shall be that degree of care and skill ordinarily employed by the profession
16 generally under similar conditions and like surrounding circumstances. Any injury
17 resulting from a want of such care and skill shall be a tort for which a recovery may be had.

18 (b) In deciding whether a physician met the standard of care and skill of his or her
19 profession when treating a patient in an emergency room setting, a jury or other trier of fact
20 shall consider all relevant circumstances that the physician faced when treating the patient,
21 including, but not limited to, whether any emergency circumstances were involved with the
22 patient's condition; whether the physician had access to the patient's relevant medical
23 history; all other circumstances surrounding the operation of the emergency facility,
24 including the number of patients seeking care; and whether there was a physician-patient
25 relationship between the physician and the patient predating the care at issue."