

ADOPTED

1 Senators Unterman of the 45th, Price of the 56th and Thomas of the 54th offered the
2 following amendment:

3 Amend the committee substitute to HB 1028 (LC 14 8858S) by adding after the semicolon
4 on line 9 of page 1 the following:

5 "to provide for limited liability for certain medical facilities and health care providers for
6 treatment of certain emergency conditions under certain conditions;"

7 By inserting between lines 3 and 4 of page 15 the following:

8 "31-46-51.1.

9 (a) As used in this Code section, the term:

10 (1) 'Dedicated emergency department' means any department or facility of a hospital
11 located on the main hospital campus that meets one of the following requirements:

12 (A) It is held out to the public, by name, posted signs, advertising, or other means, as
13 a place that provides care for emergency medical conditions on an urgent basis without
14 requiring a previously scheduled appointment; or

15 (B) During the calendar year immediately preceding the calendar year in which a
16 determination under this Code section is being made, based upon a representative
17 sample of patient visits that occurred during that calendar year, it provided at least
18 one-third of all of its outpatient visits for the treatment of emergency medical
19 conditions on an urgent basis without requiring a previously scheduled appointment.

20 (2) 'Emergency medical condition' means:

21 (A) A medical condition manifesting itself by acute symptoms of sufficient severity,
22 including severe pain, such that the absence of immediate medical attention could
23 reasonably be expected to result in:

24 (i) Placing the health of the individual, or, with respect to a pregnant woman, the
25 health of the woman or her unborn child, in serious jeopardy;

26 (ii) Serious impairment to bodily functions; or

27 (iii) Serious dysfunction of any bodily organ or part; or

28 (B) With respect to a pregnant woman who is having contractions:

29 (i) That there is inadequate time to effect a safe transfer to another hospital before
30 delivery; or

31 (ii) That transfer may pose a threat to the health or safety of the woman or the unborn
32 child.

1 (3) 'Hospital' means a medical facility which has a valid permit or provisional permit
2 issued by the Department of Human Resources under Chapter 7 of Title 31 and which
3 operates a dedicated emergency department that provides care or assistance, including but
4 not limited to emergency care, to individuals seeking medical treatment. Such term shall
5 also include any employee of such hospital who provides care or assistance to such
6 individuals within the scope of his or her employment, whether or not such person is a
7 health care provider.

8 (4) 'Noneconomic damages' means damages for physical and emotional pain, discomfort,
9 anxiety, hardship, distress, suffering, inconvenience, physical impairment, mental
10 anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss
11 of consortium, injury to reputation, and all other nonpecuniary losses of any kind or
12 nature. This term does not include past or future:

13 (A) Medical expenses, including rehabilitation and therapy;

14 (B) Wages;

15 (C) Income;

16 (D) Funeral and burial expenses;

17 (E) The value of services performed by the injured in the absence of the injury or
18 death; or

19 (F) Other monetary expenses.

20 (b) Without waiving or affecting and cumulative of any existing immunity from any
21 source, unless it is established that injuries or death were caused by gross negligence or
22 willful or wanton misconduct, no hospital or health care provider that renders care or
23 assistance to an individual who comes to a dedicated emergency department for treatment
24 of a medical condition, whether such care or assistance is rendered gratuitously or for a fee,
25 shall be held liable for noneconomic damages to or for the benefit of any claimant arising
26 out of any act or omission in rendering such care or assistance.

27 (c) The limitation on liability provided in subsection (b) of this Code section shall not
28 apply to any act or omission in rendering care or assistance:

29 (1) Unrelated to the original medical condition for which the individual sought care or
30 assistance;

31 (2) Which occurs more than 24 hours after the hospital or health care provider began
32 rendering such care or assistance; or

33 (3) To a pregnant woman in active labor who has previously received prenatal care from
34 such hospital or health care provider for such pregnancy."