

WITHDRAWN

1 Senators Thomas of the 54th, Price of the 56th, Johnson of the 1st, Hudgens of the 47th,
2 Moody of the 27th and others offered the following amendment:

3 Amend the committee substitute to HB 1028 (LC 14 8858S) by adding after the semicolon
4 on line 10 of page 1 the following:

5 "to limit the maximum aggregate amount of noneconomic damages in medical malpractice
6 actions to \$750,000.00 and provide for periodic payments of certain damages in such
7 actions;".

8 By striking the quotation mark on line 27 of page 16 and inserting between lines 27 and 28
9 of page 16 the following:

10 "31-46-54.

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

12 (1) 'Claimant' means a person, including a decedent's estate, who seeks or has sought
13 recovery of damages in a health care liability claim. All persons claiming to have
14 sustained damages as the result of the bodily injury or death of a single person are
15 considered a single claimant.

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

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

22 (B) Wages;

23 (C) Income;

24 (D) Funeral and burial expenses;

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

27 (F) Other monetary expenses.

28 (b) In any verdict returned or judgment entered in a medical malpractice action, including
29 an action for wrongful death, against one or more health care providers, the total amount
30 recoverable by a claimant for noneconomic damages in such action shall be limited to an
31 amount not to exceed \$250,000.00, regardless of the number of defendant health care
32 providers against whom the claim is asserted or the number of separate causes of action on
33 which the claim is based.

1 (c) In any verdict returned or judgment entered in a medical malpractice action, including
2 an action for wrongful death, against a single medical facility, inclusive of all persons and
3 entities for which vicarious liability theories may apply, the total amount recoverable by
4 a claimant for noneconomic damages in such action shall be limited to an amount not to
5 exceed \$250,000.00, regardless of the number of separate causes of action on which the
6 claim is based.

7 (d) In any verdict returned or judgment entered in a medical malpractice action, including
8 an action for wrongful death, against more than one medical facility, inclusive of all
9 persons and entities for which vicarious liability theories may apply, the total amount
10 recoverable by a claimant for noneconomic damages in such action shall be limited to an
11 amount not to exceed \$250,000.00 from any single medical facility and \$500,000.00 from
12 all medical facilities, regardless of the number of defendant medical facilities against whom
13 the claim is asserted or the number of separate causes of action on which the claim is
14 based.

15 (e) In applying subsections (b), (c), and (d) of this Code section, the aggregate amount of
16 noneconomic damages recoverable under such subsections shall in no event exceed
17 \$750,000.00.

18 (f) In any medical malpractice action, if an award of future damages equaling or exceeding
19 \$250,000.00 is made against any party in the action, the trial court shall, upon the request
20 of any party, issue an order providing that such damages be paid by periodic payments.
21 Such periodic payments shall be funded through an annuity policy with the premium for
22 such annuity equal to the amount of the award for future damages."