

1 Senators Shafer of the 48th, Harp of the 16th, Clay of the 37th, Adelman of the 42nd and
2 Mullis of the 53rd offered the following amendment:

3 Amend amendment #9 to the Senate Health and Human Services Committee substitute to HB
4 1028 (AM 14 0693) by striking from line 2 on page 1 through line 22 on page 2 and inserting
5 in lieu thereof the following:

6 "Amend the Senate Health and Human Services Committee substitute to HB 1028 by
7 inserting after 'actions;' on line 10 on page 1 'to provide for the bifurcation of the liability and
8 damages issues in medical malpractice cases; to provide for certain jury instructions; to
9 provide for the review of certain verdicts;'

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

11 'conflicting provisions of Title 51 or any other law.'

12 ARTICLE 4

13 31-46-70.

14 (a) In any medical malpractice case, the trier of fact shall first resolve from the evidence
15 produced at trial the question of liability. This finding shall be made specially through an
16 appropriate form of verdict, along with the other required findings.

17 (b) If the trier of fact determines that a party is liable to another party under the evidence
18 produced at trial, the trial shall immediately be recommenced in order to receive such
19 evidence as is relevant to a decision regarding what amount of compensatory damages, if
20 any, will be sufficient to compensate the injured party in light of the circumstances of the
21 case. It shall then be the duty of the trier of fact to set the amount to be awarded.

22 (c) Prior to beginning deliberations on the amount of compensatory damages to be
23 awarded, the trial court shall advise the jury as to the range of awards for noneconomic
24 damages for injuries factually comparable to the injuries claimed to have been suffered by
25 the injured party that have been rendered in the judicial circuit in which the trial is being
26 held or in similar judicial circuits in the state.

27 (d) If a jury awards as a part of compensatory damages noneconomic damages that exceed
28 the range of awards for noneconomic damages for injuries factually comparable to the
29 injuries claimed to have been suffered by the injured party that have been rendered in the
30 judicial circuit in which the trial is being held or in similar judicial circuits in the state by
31 25 percent or more, the trial court shall review such award and determine if such award
32 is clearly so excessive as to be inconsistent with the preponderance of the evidence. If the

1 court finds that the award is excessive, the trial court shall order a new trial as to damages
2 only, as to any or all parties, or may condition the grant of such a new trial upon any
3 party's refusal to accept an amount of noneconomic damages determined by the trial court
4 to be appropriate and not excessive under the evidence produced at trial."