

March 31, 2003

H 809. ENSURE HEALTH CARE ACCESS. TO ENSURE ACCESS TO HEALTH CARE BY ESTABLISHING A REASONABLE TWO HUNDRED FIFTY THOUSAND DOLLAR LIMIT ON NONECONOMIC DAMAGES, ACCOUNTING FOR CERTAIN COLLATERAL SOURCE PAYMENTS, AUTHORIZING THE PERIODIC PAYMENT OF FUTURE ECONOMIC DAMAGES, PROVIDING THE FORM OF VERDICTS AND AWARDS OF DAMAGES, AND REGULATING ATTORNEY CONTINGENCY FEES IN MEDICAL MALPRACTICE ACTIONS; AND TO PROVIDE THAT CERTAIN CONFIDENTIALITY REQUIREMENTS APPLY TO DOCUMENTS REGARDING NURSING HOME QUALITY OF CARE. (1) Malpractice Damage Awards. Adds new GS 90-21.18 limiting recovery of noneconomic damages in medical malpractice actions to \$250,000 per plaintiff and prohibiting court from instructing jury with respect to limit. New GS 90-21.18A provides that collateral source payments to plaintiff shall be allowed into evidence upon defendant's request, but definition of those payments does not include life or health insurance benefits or other private benefits. When award of future economic damages exceeds \$100,000, new GS 90-21.18B authorizes presiding judge to order that damages be made in periodic payments through the establishment of a trust fund or annuity and prescribes content of court order. Liability for periodic payment terminates upon plaintiff's death, except that court may modify judgment to provide that payments be made to plaintiff's dependents. New 90-21.18C specifies the content of verdicts and awards of damages. (2) Contingency Fees. GS 90-21.18D limits the amount of contingency fees in malpractice actions as a percentage of the amount recovered as follows: (a) 40% of the first \$50,000; (b) 33 1/3% of next \$50,000; (c) 25% of the next \$500,000; and (d) 15% of any amount over \$600,000. In the event periodic payments for future economic damages are made, requires that court place present value on those damages for purpose of calculating fee award. (3) Nursing Home Quality Assurance Committee and Inspection Records. Adds new GS 131E-101(8) defining "quality assurance committee." Adds new GS 131E-105(d) and (e) and GS 131E-124 (e) and (f) preventing the use of nursing home inspection reports or statements of deficiency and related documentation in any court action or proceeding and providing that such information is inadmissible. Adopts new 131E-107(b) stating that proceedings of quality assurance, medical or peer review committees and related records shall be confidential and not be considered "public records" under GS 132-1 and that such records and related testimony of meeting attendees is not discoverable in a civil action against nursing home. Makes technical corrections. Applicable to causes of action arising and contingency fee agreement entered into after effective date.

Intro. by Miner, Nye, Kiser, Crawford.

Ref. to Rules	GS 90, 131E
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