

May 23, 2006

H 2480. CIVIL JUSTICE IMPROVEMENT ACT-2. Filed 5/23/06. *TO AMEND THE LAWS IMPACTING MEDICAL MALPRACTICE INSURANCE RATES TO IMPROVE THE COST OF PROVIDING HEALTH CARE IN NORTH CAROLINA AND TO APPROPRIATE FUNDS TO IMPLEMENT THE ACT.* Adds new GS 90-21.18 to provide limits on non-economic damages (mental or physical anguish, emotional pain and suffering, physical pain and suffering, loss of consortium, disfigurement, loss of body parts, physical impairments) in medical malpractice cases: \$350,000 for each plaintiff, unless the plaintiff is dead or in vegetative state, and in those cases, limit is \$500,000. Jury may not be informed of the limits on damages. (Does not limit economic damages--medical costs, hospital costs, custodial care, rehabilitation costs, lost earnings, loss of bodily functions, as well as any future costs for these purposes). Adds new GS 90-21.18B to require court to allow in evidence the collateral source of payments to plaintiff, along with any rights to those payments created by subrogation agreements. If an award of future economic damages exceeds \$100,000, either party may request the payments to be made by periodic payments through a trust or annuity. Death of plaintiff terminates obligation to pay such future damages, subject to exceptions when court finds that death is caused by the medical negligence that is the subject of the malpractice suit. Adds new GS 90-21.18C to require special verdicts listing each kind of damages, and adds new GS 90-21.18D specifying requirements for documenting settlement costs that must be filed with Department of Insurance. Adds GS 90-21.18E to limit contingent fees for representing person seeking damages in medical malpractice case, using sliding scale (40% of first \$50,000 to 15% of any recovery over \$600,000). Adds GS 8C-1, Rule 414 to allow introduction in evidence of bills paid for past medical expenses, the amounts necessary to satisfy the bills that have been incurred, and the source of payment and subrogation rights related to the payments. Amends GS 1-289 to limit amount of undertaking when there is an appeal to the amount of the judgment or the amount of insurance coverage, whichever is less. Amends GS 1-17(b) to provide that malpractice claim by minor must be commenced no more than 10 years from the last act of the defendant giving rise to the claim. Amends GS 1A-1, Rule 42 to require separate trials on liability and damages when the amount of damages is alleged to be greater than \$100,000, but same jury is to be used for both trials. Amends GS 1A-1, Rule 9 to specify that pre-filing review required under that section be demonstrated by an affidavit from an expert who is expected to qualify as expert witness and that asserts that he or she has read all the available medical records of the plaintiff. Amends GS 90-14 to expand possible medical board disciplinary actions to include admonition, reprimand, or censure, all of which become public records. Raises annual registration fee for persons licensed to practice medicine from current \$175 to \$250. Amends GS 58A-2-170 to require Commissioner of Insurance to file annual report with General Assembly on data collected in malpractice cases. Appropriates \$25,000 from General Fund to Department of Insurance for fiscal 2006-07 to implement annual reporting requirement. Effective October 1, 2006, and new sections in GS Ch. 90 apply to causes of action arising on or after that date and to contingency fee contracts entered into on or after that date.

Intro. by Kiser, Justus, Howard.

GS 1, 1A, 8C, 58, 90, APPROP