

March 24, 2005

S 989. CIVIL JUSTICE IMPROVEMENTS. TO AMEND THE LAWS IMPACTING MEDICAL MALPRACTICE INSURANCE RATES TO IMPROVE THE COST OF PROVIDING HEALTH CARE IN NORTH CAROLINA. Enacts new GS 90-21.18 through 90-21.1E to provide that plaintiff in medical malpractice action is limited to recovery of noneconomic damages of \$350,000 except if negligence resulted in a persistent vegetative state or death, total noneconomic damages cannot exceed \$500,000. Defines noneconomic damages as damages to compensate mental anguish, emotional distress, emotional pain and suffering, loss of consortium, loss of companionship, pain and suffering, disfigurement, loss of limbs or body parts, inconvenience, physical impairment, and any other nonpecuniary damages. Provides that jury cannot be told about limitation. Requires court to allow into evidence, if requested by defendant, collateral source payments and, if requested by plaintiff, rights of subrogation of any collateral source. Allows presiding judge to enter judgment ordering that money damages for future economic damages awarded be paid, at the election of the defendant against whom the award was made, by periodic payments rather than by a lump-sum payment when award exceeds \$100,000 in future economic damages. Requires medical malpractice verdict or award to specify amount awarded for noneconomic damages, present economic damages, and future economic damages. Prohibits attorney from collecting contingency fee for representing person in medical malpractice action in excess of percentages set out in bill based on amount of recovery.

Adds Rule 414 to Rules of Evidence governing evidence to prove past medical expenses. Amends GS 1-289 to provide that amount of bond required to stay money judgment in medical malpractice action while case is on appeal is lesser of amount of judgment or amount of appellant's medical malpractice insurance coverage applicable to action. Amends GS 1-17(b), which extends statute of limitations on behalf of minor for malpractice action until minor reaches 19, to add a statute of repose providing that in no event may action arising from birth-related injuries be brought more than 10 years from last act giving rise to action. Amends GS 58-2-170 to require annual reports by professional liability insurers to Comm'r of Insurance to include more detailed information about malpractice judgments so Comm'r can analyze reports for trends. Amends Rule 17 of Rules of Civil Procedure to require court, upon motion of party in medical malpractice action alleging damages of more than \$100,000, to order separate trials on liability and damages, but same trier of fact must try both issues. Amends Rule 9 of the Rules of Civil Procedure to require that the sworn affidavit of expert witness expecting to testify (which must accompany complaint in medical malpractice action) must include the assertion that the medical care and all medical records pertaining to the alleged injury then available have been reviewed and the witness is willing to testify that the medical care breached the applicable standard of care. Amends GS 90-14 to add censure, reprimand, and admonishment to actions Board of Medical Examiners can take against physicians. Increases annual registration fee for physicians; increases punishment for practicing medicine without a license from Class 1 misdemeanor to Class I felony. Criminal punishment for practicing medicine without a license becomes effective December 1, 2005, and remainder of act becomes effective October 1, 2005.

Intro. by Hoyle.

Ref. to Ways & Means

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