

February 26, 2009

H 330. PERIODIC PAYMENTS FOR MEDICAL MALPRACTICE. Filed 2/26/09. *TO AUTHORIZE THE PAYMENT OF FUTURE EXPENSES ARISING FROM MEDICAL MALPRACTICE ACTIONS TO BE PAID PERIODICALLY.*

Enacts new GS 90-21.19 to provide for periodic payment of future economic damages in medical malpractice actions. Establishes definitions for *future economic damages* and *periodic payments*. Requires that, in any medical malpractice action, the form of the fact finder's verdict or award of damages indicate specifically what amount is awarded for future economic damages. Requires that the presiding judge, at the request of either party, enter a judgment ordering that future economic damages be paid in whole or in part by periodic payments if the award exceeds \$100,000. The court must make a specific finding as to the amount of periodic payments, the recipient, the interval between payments, and the number of payments that will compensate the plaintiff. To constitute satisfaction of the judgment, the court must require that those payments be made through a trust fund or the purchase of an annuity for the applicable period of time. Provides that the calculation of any attorney contingency fee for representation in the malpractice action must be based upon the present value of the future economic damages. Payments are only subject to modification by the court in the event of the plaintiff's death. Provides that upon the plaintiff's death, liability for payment of future economic damages terminates, unless the court which rendered the original judgment modifies the judgment to make periodic payments payable to any persons owed a duty of support immediately prior to the plaintiff's death. Effective for actions filed on or after October 1, 2009.

Intro. by England.

GS 90