



NORTH CAROLINA GENERAL ASSEMBLY
CONFERENCE REPORT

Senate Bill 33

S33-CRTG-96 [v.21]

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[NO] Title Change

[YES] For Committee Substitute

To: The President of the Senate
The Speaker of the House of Representatives

The conferees appointed to resolve the differences between the Senate and the House of Representatives on Senate Bill 33, A BILL TO BE ENTITLED AN ACT TO REFORM THE LAWS RELATING TO MONEY JUDGMENT APPEAL BONDS, BIFURCATION OF TRIALS IN CIVIL CASES, AND MEDICAL LIABILITY, House Committee Substitute Favorable 4/19/11, Fifth Edition Engrossed 4/20/11, submit the following report:

The Senate and the House agree to the following amendments and the Senate concurs in House Committee Substitute Favorable 4/19/11, Fifth Edition Engrossed 4/20/11, as amended:

on page 2, line 47 and page 3, line 2, delete the words "and resulting injuries"; and

on page 4, lines 39 through 42, rewrite those lines to read:

"(b) In any medical malpractice action arising out of the furnishing or the failure to furnish professional services in the treatment of an emergency medical condition, as the term "emergency medical condition" is defined in 42 U.S.C. 1395dd(e)(1), the claimant must prove a violation of the standards of practice set forth in subsection (a) of this section by clear and convincing evidence."; and

on page 4, line 46, rewrite that line to read:

"(a) Except as otherwise provided in subsection (b) of this section, in any medical malpractice action in which the plaintiff is entitled to an award of"; and

on page 4, line 48, insert the following after the period:

"Judgment shall not be entered against any defendant for noneconomic damages in excess of five hundred thousand dollars (\$500,000) for all claims brought by all parties arising out of the same professional services."; and

on page 5, line 1, insert the following after the period:

"The Administrative Office of the Courts shall inform the Revisor of Statutes of the reset limitation. The Revisor of Statutes shall publish this reset limitation as an editor's note to this section."; and

on page 5, line 2, delete "'G.S. 90-21.19B(1)" and substitute "G.S. 90-21.19B"; and



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on page 5, lines 5 through 19, rewrite those lines to read:

"(b) Notwithstanding subsection (a) of this section, there shall be no limit on the amount of noneconomic damages for which judgment may be entered against a defendant if the trier of fact finds both of the following:

- (1) The plaintiff suffered disfigurement, loss of use of part of the body, permanent injury or death.
- (2) The defendant's acts or failures, which are the proximate cause of the plaintiff's injuries, were committed in reckless disregard of the rights of others, grossly negligent, fraudulent, intentional or with malice.

(c) The following definitions apply in this section:

- (1) Consumer Price Index. – The Consumer Price Index – All Urban Consumers, for the South urban area, as published by the Bureau of Labor Statistics of the United States Department of Labor.
- (2) Noneconomic damages. – Damages to compensate for pain, suffering, emotional distress, loss of consortium, inconvenience, and any other nonpecuniary compensatory damage. "Noneconomic damages" does not include punitive damages as defined in G.S. 1D-5.
- (3) Same professional services. – The transactions, occurrences, or series of transactions or occurrences alleged to have caused injury to the health care provider's patient.

(d) Any award of damages in a medical malpractice action shall be stated in accordance with G.S. 90-21.19B. If a jury is determining the facts, the court shall not instruct the jury with respect to the limit of noneconomic damages under subsection (a) of this section, and neither the attorney for any party nor a witness shall inform the jury or potential members of the jury panel of that limit."; and

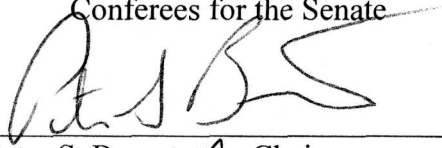
on page 6, line 21, rewrite the line to read:

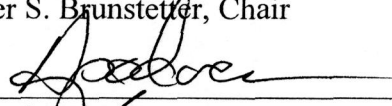
"jurisdiction, then Section 8 of this act is repealed, but the invalidity does not".

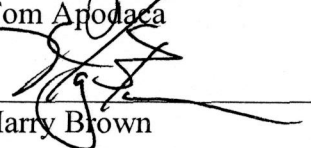
The conferees recommend that the Senate and the House of Representatives adopt this report.

Date Conferees approved report: June ____, 2011.


Conferees for the Senate


Peter S. Brunstetter, Chair


Tom Apodaca


Harry Brown

Conferees for the
House of Representatives


Johnathan Rhyne, Jr.


Daniel R. McComas


Paul Stam

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William D. Brisson

William D. Brisson

Chuck McGrady

Chuck McGrady

Submitted _____

ADOPTED _____

ADOPTED _____

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Message Received _____

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Ordered Enrolled _____

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