

Georgia General Assembly Passes Medical Liability Reform Legislation

After years of wrangling, the Georgia legislature gave final approval to legislation that would set limits on malpractice reform lawsuits. The Senate passed the bill (S.B. 3) by a vote of 38-15 on February 14 and the House approved the bill by a vote of 136-34 on February 10. Governor Sonny Perdue is expected to sign it into law. The bill would be effective upon the Governor's signature.

The bill would:

- Cap jury awards for pain and suffering at \$350,000, or up to \$1.05 million if multiple defendants are found liable.
- Encourage out-of-court settlements by requiring one party to pay the other side's attorneys fees if they lose after rejecting a reasonable settlement offer.
- Allow juries to determine whether a lawsuit is frivolous and make the losing side pay the other's attorneys fees if it is found to be so.
- Eliminate a legal principle known as "joint and several liability" in all tort cases by making juries decide what share of the blame multiple defendants should be liable.
- Overhaul the requirements for expert testimony by adopting rules now used in federal courts.
- Allow doctors to apologize to patients for procedures that go wrong without that apology being used against them in court.
- Require the Composite State Board of Medical Examiners to investigate the fitness of doctors who have had at least three medical malpractice settlements or court judgments against them.

A provision of the bill that toughens the standard of burden of proof for patients trying to sue emergency room doctors from simple negligence to "gross negligence" was bitterly opposed by some lawmakers and may be revisited in additional legislation.

For more information on S.B.3, including bill text, go to http://www.legis.state.ga.us/legis/2005_06/sum/sb3.htm

If you have any questions on these or other topics, please contact Shuan Tomlinson at 800-338-2746 ext. 4547 or by email at stomlinson@acponline.org.

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