

Regular Session, 2012

SENATE BILL NO. 141

BY SENATOR MILLS

MALPRACTICE. Constitutional Amendment to provide relative to limitation of liability for medical malpractice claims. (1/1/13) (2/3 CA13s1(A))

1 A JOINT RESOLUTION

2 Proposing to add Article XII, Section 17, of the Constitution of Louisiana, relative to
3 liability; to authorize the legislature by law to limit or provide for the extent of
4 liability of a provider of medical or health care; to provide certain terms and
5 conditions; to provide that such limitation of liability includes the circumstances
6 giving rise to liability and the kinds and amounts of recoverable damages; to provide
7 that the limitation of liability applies to certain losses and damages; to provide for
8 retroactivity; and to specify an election for submission of the proposition to electors
9 and provide a ballot proposition.

10 Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members
11 elected to each house concurring, that there shall be submitted to the electors of the state, for
12 their approval or rejection in the manner provided by law, a proposal to add Article XII,
13 Section 17, of the Constitution of Louisiana, to read as follows:

14 **§17. Medical Malpractice**

15 **Section 17. Medical Malpractice. Notwithstanding any other provision**
16 **of this constitution, the legislature by law may limit or provide for the extent of**
17 **liability of a provider of medical or health care, including the circumstances**

1 **giving rise to liability and the kinds and amounts of recoverable damages. The**
2 **limitation of liability shall apply to damages and losses, however characterized,**
3 **arising from treatment, lack of treatment, or departure from an accepted**
4 **standard of medical or health care or safety, that is claimed to be a cause of, or**
5 **contribute to, disease, injury, or death of an individual.**

6 Section 2. Be it further resolved that this proposed amendment, if approved by the
7 electors, shall become effective on January 1, 2013, and that this proposed amendment shall
8 be applied retroactively to all acts of the legislature existing on that date establishing a
9 limitation of liability for all damages incurred in medical or health care claims or against
10 health care providers.

11 Section 3. Be it further resolved that this proposed amendment shall be submitted
12 to the electors of the state of Louisiana at the statewide election to be held on November 6,
13 2012.

14 Section 4. Be it further resolved that on the official ballot to be used at said election
15 there shall be printed a proposition, upon which the electors of the state shall be permitted
16 to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as
17 follows:

18 Do you support an amendment authorizing the legislature by law to limit or
19 provide for the extent of liability of a provider of medical or health care,
20 including the circumstances giving rise to liability and the kinds and amounts
21 of recoverable damages, that applies to liability for damages and losses
22 arising from treatment, lack of treatment, or departure from an accepted
23 standard of medical or health care or safety that is claimed to be a cause of
24 or contribute to disease, injury, or death of an individual? Provides for
25 effective date of January 1, 2013, and for retroactive application to legislative
26 acts existing on that date.

27 (Adds Article XII, Section 17)

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jerry G. Jones.

DIGEST

Proposed constitution amendment adds that, notwithstanding any other provision of this constitution, the legislature by law may limit or provide for the extent of liability of a provider of medical or health care, including the circumstances giving rise to liability and the kinds and amounts of recoverable damages. The limitation of liability shall apply to damages and losses, however characterized, arising from treatment, lack of treatment, or departure from an accepted standard of medical or health care or safety, that is claimed to be a cause of, or contribute to, disease, injury, or death of an individual.

Specifies submission of the amendment to the voters at the statewide election to be held on November 6, 2012.

Provides for effective date of January 1, 2013. Further provides that its provisions shall be applied retroactively to all acts of the legislature existing on that date establishing a limitation of liability for all damages incurred in medical or health care claims or against health care providers.

(Adds Const. Art. XII, Sec. 17)