

Bill No. CS for SB 2-C

Amendment No. ____ Barcode 854786

CHAMBER ACTION

Senate

House

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Senator Lee moved the following amendment:

Senate Amendment

On page 138., line 12 through page 139, line 24, delete those lines

and insert:

Section 1. Section 766.118, Florida Statutes, is created to read:

766.118 Determination of noneconomic damages.--

(1) With respect to a cause of action for personal injury or wrongful death resulting from an occurrence of medical negligence, recovery for noneconomic damages as defined in s. 766.202(8), shall not exceed \$500,000 aggregate for all defendant health care practitioners, \$500,000 aggregate for all defendant health care facilities, and \$500,000 aggregate for all other defendant health care providers regardless of the number of claimants involved in the action subject to the limitations set forth in subsection (2).

(2) Notwithstanding subsection (1), in a cause of

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1 action arising from and occurrence medical negligence
2 resulting in certain catastrophic injuries including death,
3 coma, severe and permanent brain damage, mastectomy, loss of
4 reproductive capabilities, hemiplegia, quadriplegia,
5 paraplegia, blindness, or a permanent vegetative state, the
6 trier of fact may award noneconomic damages under this
7 subsection in an amount not to exceed \$1 million aggregate for
8 all defendant health care practitioners, \$1 million aggregate
9 for all defendant health care facilities, and \$1 million
10 aggregate for all other defendant health care providers. The
11 maximum amount of noneconomic damages under this subsection
12 may not exceed \$3 million per incident.

13 (3) The maximum amount of noneconomic damages which
14 may be awarded under this section must be adjusted each year
15 on July 1 to reflect the rate of inflation or deflation as
16 indicated in the Consumer Price Index for All Urban Consumers
17 published by the United States Department of Labor. However,
18 the maximum amount of noneconomic damages which may be awarded
19 may not be less than \$500,000.

20 (4) Notwithstanding any law to the contrary, the caps
21 on noneconomic damages provided in subsection (1) or (2) of
22 this section do not apply to any incident involving a
23 physician or osteopathic physician who is not in compliance
24 with the financial responsibility requirements set forth in
25 ss. 458.320 and 459.0085, respectively.

26 (5) This section expires effective September 1, 2006,
27 but shall continue to apply with respect to incidents that
28 occur prior to that date.

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