

HJR 1337

2004

House Joint Resolution

A joint resolution proposing the creation of Section 26 of Article I and Section 26 of Article XII of the State Constitution to ensure a medical liability claimant's right to fair compensation in any medical liability claim.

Be It Resolved by the Legislature of the State of Florida:

That the creation of Section 26 of Article I and Section 26 of Article XII of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 2004:

ARTICLE I

DECLARATION OF RIGHTS

SECTION 26. Claimant's right to fair compensation in medical liability claim.--In any medical liability claim involving a contingency fee, the claimant is entitled to receive no less than 70 percent of the first \$250,000 of all damages received by the claimant, exclusive of reasonable and customary costs, whether received by judgment, settlement, or otherwise, and regardless of the number of defendants. The claimant is entitled to 90 percent of all damages in excess of \$250,000, exclusive of reasonable and customary costs and regardless of the number of defendants. This section is self-executing and does not require implementing legislation.

ARTICLE XII

SCHEDULE

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29 SECTION 26. Claimant's right to fair compensation in
30 medical liability claim.--Section 26 of Article I, relating to a
31 claimant's right to fair compensation in a medical liability
32 claim involving a contingency fee, shall take effect November 3,
33 2004.

34 BE IT FURTHER RESOLVED that the title and substance of the
35 amendment proposed herein shall appear on the ballot as follows:

36 MEDICAL LIABILITY CLAIMANT'S COMPENSATION

37 Proposes the creation of Section 26 of Article I and
38 Section 26 of Article XII of the State Constitution to provide
39 that an injured claimant who enters into a contingency fee
40 agreement with an attorney in a claim for medical liability is
41 entitled to no less than 70 percent of the first \$250,000 of all
42 damages received by the claimant and 90 percent of all damages
43 in excess of \$250,000, exclusive of reasonable and customary
44 costs and regardless of the number of defendants; provides that
45 the amendment is self-executing; provides an effective date of
46 November 3, 2004.