

2016 Second Extraordinary Session

SENATE RESOLUTION NO. 12

BY SENATOR GATTI

LEGIS POWERS/FUNCTIONS. Requests study of medical malpractice caps and surcharges by Senate Committee on Health and Welfare and Senate Committee on Judiciary A.

1 A RESOLUTION

2 To urge and request the Senate Committee on Health and Welfare and the Senate Committee
3 on Judiciary A to meet and function as a joint committee to study, receive testimony,
4 and make recommendations regarding present Louisiana laws concerning medical
5 malpractice caps and surcharges.

6 WHEREAS, in 1975 Louisiana law concerning medical malpractice claims against
7 qualified healthcare providers was revised to impose a damage "cap" of \$500,000; and

8 WHEREAS, at the same time the definition of "qualified healthcare provider" was
9 made broad and generally applicable to those making premium payments into the Louisiana
10 Patient's Compensation Fund; and

11 WHEREAS, the majority of other states with medical malpractice "caps" distinguish
12 between economic and noneconomic damages, and limit only noneconomic damages; and

13 WHEREAS, unlike most other states the \$500,000 "cap" enacted in Louisiana did
14 not differentiate between economic and noneconomic damages, and applied to the "total
15 amount recoverable", including economic and noneconomic damages; and

16 WHEREAS, such "cap" was amended in 1984 to exclude the cost of "future medical
17 care and related benefits" and such costs are no longer limited but are still subject to
18 administrative approval and reviews; and

1 WHEREAS, such \$500,000 "cap" since enactment in 1975 and thereafter has not
2 been subject to increases for inflation or any other form of economic index; and

3 WHEREAS, over forty years later and on behalf of the people of Louisiana, the time
4 has now come to revisit and review present Louisiana laws concerning medical malpractice
5 caps and surcharges; and

6 WHEREAS, the Senate Committee on Health and Welfare and the Senate Committee
7 on Judiciary A should meet and function as a joint committee to study and take testimony
8 on these issues, and such testimony should include, but not be limited to, information
9 obtained from the following specific entities and organizations:

- 10 (1) Louisiana Association of Defense Counsel.
- 11 (2) Louisiana Hospital Association.
- 12 (3) Louisiana Association for Justice.
- 13 (4) Louisiana Medical Mutual Insurance Company.
- 14 (5) Louisiana Nursing Home Association.
- 15 (6) Louisiana State Medical Society.
- 16 (7) Medical Protective Insurance Company.
- 17 (8) Office of Risk Management - Division of Administration.
- 18 (9) Patients Compensation Fund; and

19 WHEREAS, the joint committee may also invite committees from the House of
20 Representatives to participate in such joint study.

21 THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana
22 does hereby urge and request the Senate Committee on Health and Welfare and the Senate
23 Committee on Judiciary A to meet and function as a joint committee to study, receive
24 testimony, and make recommendations regarding present Louisiana laws concerning medical
25 malpractice caps and surcharges.

26 BE IT FURTHER RESOLVED that any findings and recommendations made by the
27 joint committee shall be reported to the legislature not later than sixty days prior to the
28 convening of the 2017 Regular Session of the Legislature of Louisiana.

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

DIGEST

SR 12 Original

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Requests the Senate Committee on Health and Welfare and the Senate Committee on Judiciary A to meet and function as a joint committee to study, receive testimony, and make recommendations regarding present Louisiana laws concerning medical malpractice caps and surcharges.