

House Bill 128 (AS PASSED HOUSE AND SENATE)

By: Representatives Silcox of the 52<sup>nd</sup>, Welch of the 110<sup>th</sup>, Fleming of the 121<sup>st</sup>, and Kelley of the 16<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 3 of Title 33 of the Official Code of Georgia Annotated, relating to  
2 authorization and general requirements for transaction of insurance, so as to provide that  
3 insurers do not have to notify the Georgia Composite Medical Board of agreements to settle  
4 medical malpractice claims against physicians when the settlement resulted in the low  
5 payment under a high/low agreement; to amend Code Section 43-34-8 of the Official Code  
6 of Georgia Annotated, relating to the authority of the Georgia Composite Medical Board to  
7 refuse license, certificate, or permit or issue discipline, so as to provide that licensees,  
8 certificate holders, and permit holders do not have to notify the Georgia Composite Medical  
9 Board of agreements to settle medical malpractice claims against physicians when the  
10 settlement resulted in the low payment under a high/low agreement; to amend Code Section  
11 43-34A-3 of the Official Code of Georgia Annotated, relating to physician profiles,  
12 dissemination to public, content and maintenance requirements, corrections, and exemptions,  
13 so as to provide that low payments under high/low agreements shall not be included in  
14 physician profiles as medical malpractice settlements; to provide for definitions; to provide  
15 for related matters; to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 style="text-align:center">**SECTION 1.**

18 Chapter 3 of Title 33 of the Official Code of Georgia Annotated, relating to authorization and  
19 general requirements for transaction of insurance, is amended by revising Code Section  
20 33-3-27, relating to reports of awards under medical malpractice insurance policies, as  
21 follows:

22 "33-3-27.

23 (a) For the purposes of this Code section, the term:

24 (1) 'High/low agreement' means a settlement in which a defendant agrees to pay the  
25 plaintiff a minimum recovery in return for the plaintiff's agreement to accept a maximum  
26 amount regardless of the outcome of the trial.

27 (2) 'Low payment' means the defendant pays the plaintiff the minimum recovery under  
 28 a high/low agreement where the court rules in favor of the defendant.

29 (3) 'Medical 'medical malpractice claim' means any claim for damages resulting from the  
 30 death of or injury to any person arising out of health, medical, or surgical service,  
 31 diagnosis, prescription, treatment, or care rendered by a person authorized by law to  
 32 practice medicine in this state or by any person acting under such person's supervision  
 33 and control.

34 (b) Every insurer providing medical malpractice insurance coverage in this state shall  
 35 notify in writing the Georgia Composite Medical Board when it pays a judgment or enters  
 36 into an agreement to pay an amount to settle a medical malpractice claim, other than a low  
 37 payment under a high/low agreement, against a person authorized by law to practice  
 38 medicine in this state. Such judgments or agreements shall be reported to the board  
 39 regardless of the dollar amount. Such notice shall be sent within 30 days after the  
 40 judgment has been paid or the agreement has been entered into by the parties involved in  
 41 the claim."

42 **SECTION 2.**

43 Code Section 43-34-8 of the Official Code of Georgia Annotated, relating to the authority  
 44 of the Georgia Composite Medical Board to refuse license, certificate, or permit or issue  
 45 discipline, is amended by revising subsection (j) as follows:

46 "(j) The board shall investigate a licensee's, certificate holder's, or permit holder's fitness  
 47 to practice pursuant to this chapter if the board has received a notification, pursuant to  
 48 Code Section 33-3-27, regarding that licensee, certificate holder, or permit holder of a  
 49 medical malpractice judgment or settlement in excess of \$100,000.00 or a notification  
 50 pursuant to Code Section 33-3-27 that there have been two or more previous judgments  
 51 against or settlements with the licensee, certificate holder, or permit holder relating to  
 52 practice pursuant to this chapter involving an action for medical malpractice. Every  
 53 licensee, certificate holder, or permit holder shall notify the board of any settlement or  
 54 judgment, excluding any low payment under a high/low agreement, involving the licensee,  
 55 certificate holder, or permit holder involving an action for medical malpractice. For  
 56 purposes of this subsection, the terms 'high/low agreement' and 'low payment' shall have  
 57 the same meaning as in Code Section 33-3-27."

58 **SECTION 3.**

59 Code Section 43-34A-3 of the Official Code of Georgia Annotated, relating to physician  
 60 profiles, dissemination to public, content and maintenance requirements, corrections, and

61 exemptions, is amended in paragraph (17) of subsection (c) by deleting the semicolon at the  
62 end of subparagraph (D) and by adding a new subparagraph to read as follows:

63 "(E) For purposes of this paragraph, medical malpractice settlements shall not include  
64 a low payment under a high/low agreement. For purposes of this subparagraph, the  
65 terms 'high/low agreement' and 'low payment' shall have the same meaning as in Code  
66 Section 33-3-27;"

67 **SECTION 4.**

68 All laws and parts of laws in conflict with this Act are repealed.