

1 or death of a patient, exclusive of **past and** future medical care and related benefits
2 as provided in R.S. 40:1231.3, **and loss of past and future income or loss of**
3 **earning capacity**, shall not exceed five hundred thousand dollars plus interest and
4 cost **for each claimant having a right of action**.

5 (2) A health care provider qualified under this Part is not liable for an amount
6 in excess of one hundred thousand dollars plus interest thereon ~~accruing after April~~
7 ~~1, 1991~~, and costs specifically provided for by this Paragraph for all malpractice
8 claims because of injuries to or death of any one patient. The sole cost for which a
9 health care provider qualified under this Part may be assessed by a trial court shall
10 be limited to the cost incurred prior to the rendering of a final judgment against the
11 health care provider, not as a nominal defendant, after a trial on a malpractice claim,
12 including but not limited to, costs assessed pursuant to Code of Civil Procedure
13 Article 970 in any instance where the board was not the offeror or offeree of the
14 proposed settlement amount. The health care provider shall not be assessed costs in
15 any action in which the fund intervenes or the health care provider is a nominal
16 defendant after there has been a settlement between the health care provider and the
17 claimant.

18 **(3) When there is an increase in the federal Consumer Price Index, with**
19 **respect to the amount of the foregoing limitation of liability set forth in this Part**
20 **from September 1, 1975, the liability limit prescribed in Paragraphs (1) and (2)**
21 **of this Subsection shall be increased by a sum equal to the amount of such limit**
22 **multiplied by the percentage increase in the Consumer Price Index for Urban**
23 **Wage Earners and Clerical Workers (CPI-W) (seasonally adjusted, U.S. City**
24 **Average, All Items), as published by the U.S. Bureau of Labor Statistics,**
25 **between September 1, 1975, and the time at which damages subject to such**
26 **limits are awarded by final judgment.**

27 ~~(3)(4)~~(a) Any amount due from a judgment or settlement or from a final
28 award in an arbitration proceeding which is in excess of the total liability of all liable
29 health care providers, as provided in Paragraph (2) of this Subsection, shall be paid

1 from the patient's compensation fund pursuant to the provisions of R.S.
2 40:1231.4(C).

3 (b) The total amounts paid in accordance with Paragraphs (2) and (3) of this
4 Subsection shall not exceed the limitation as provided in Paragraph ~~Paragraphs~~ (1)
5 **and (2) of this Subsection, as modified by Paragraph (3)** of this Subsection.

6 * * *

7 §1231.3. Future medical care and related benefits

8 A.

9 * * *

10 (3) ~~If the total amount is for the maximum amount recoverable, exclusive of~~
11 ~~the value of future medical care and related benefits that will be incurred after the~~
12 ~~date of the response to the special interrogatory by the jury or the court's finding, the~~
13 ~~cost of all future medical care and related benefits that will be incurred after the date~~
14 ~~of the response to the special interrogatory by the jury or the court's finding shall be~~
15 ~~paid in accordance with R.S. 40:1231.3(C).~~ **In all malpractice claims which**
16 **proceed to trial in which the plaintiff has established fault and causation of**
17 **injury and damages, and in which the plaintiff is found in need of future**
18 **medical care and related benefits, and the amount thereof has been established,**
19 **the court within thirty days of the date of the judgment shall hold a post-trial**
20 **evidentiary hearing on the issue of the competence of the patient, the tutor of**
21 **a minor patient, or, if interdicted, the patient's appointed curator, to manage**
22 **the future medical care and related benefits awarded by the judge or jury.**

23 **(a) If the court determines at the evidentiary hearing that the patient, the**
24 **tutor of the minor patient, or the patient's appointed curator is competent to**
25 **manage the future medical care and related benefits awarded by the jury, such**
26 **award shall be made executory, due and payable by the defendant provider**
27 **found liable at trial and by the Patient Compensation Fund as any other award**
28 **of damages in accordance with R.S. 40:1231.2(B).**

29 **(b) If the court determines at the evidentiary hearing that the patient, the**

1 ~~fund through the board for all future medical care and related benefits directly or~~
 2 ~~indirectly made necessary by the health care provider's malpractice unless the patient~~
 3 ~~refuses to allow them to be furnished~~ **in accordance with Subparagraph (A)(3)(b)**
 4 **of this Section, the court shall order the funds awarded to be deposited by the**
 5 **Patient Compensation Fund into a qualified trust as defined in 42 U.S.C.**
 6 **§1396p(d)(4) for the benefit of the victim with any residual assets upon the**
 7 **victim's death to be distributed to the victim's heirs or legatees.**

8 * * *

9 ~~F.E.~~ Nothing in this Section shall be construed to prevent a patient and a
 10 health care provider and/or the patient's compensation fund from entering into a
 11 court-approved settlement agreement whereby medical care and related benefits shall
 12 be provided for a limited period of time only or to a limited degree.

13 * * *

14 §1231.8. Medical review panel; **certificate of merit**

15 A.(1)(a)(i) All malpractice claims against health care providers covered by
 16 this Part, other than claims validly agreed for submission to a lawfully binding
 17 arbitration procedure, shall **at the claimant's election be filed in a court of**
 18 **competent jurisdiction with a certificate of merit or, prior to initiation of**
 19 **judicial proceedings,** be reviewed by a medical review panel established as
 20 hereinafter provided for in this Section.

21 **(ii) If the claimant elects to file a certificate of merit pursuant to this**
 22 **Section, the certificate of merit shall be executed in the form of an affidavit by**
 23 **the claimant, or the attorney for the claimant, or a licensed physician, declaring**
 24 **under oath one of the following:**

25 **(aa) The affiant has reviewed the facts of the case as an expert, or in**
 26 **consultation with at least one expert, who is qualified pursuant to the Louisiana**
 27 **Code of Civil Procedure and the Louisiana Code of Evidence to give expert**
 28 **testimony regarding the standard of care and negligence pertaining to the**
 29 **subject matter and medical specialty relevant to the particular medical**

1 malpractice claim being brought and that, on the basis of such review or
2 consultation, a reasonable, good faith basis for the commencement of such
3 action exists.

4 (bb) A physician licensed and board certified or otherwise qualified by
5 education or experience in the medical subject matter of the claim has reviewed
6 the available medical records pertinent to the alleged medical malpractice and
7 has concluded that the acts or omissions of the defendant did not meet the
8 medical standard of care applicable to the facts of the claim and caused or
9 contributed to the claimant's injuries or death.

10 (iii) If a claimant elects to file a certificate of merit, but is unable to
11 timely obtain the expert consultation required by this Section because to do so
12 would mean that prescription would bar bringing the medical malpractice
13 action, then the claimant may file a certificate of merit within ninety days of all
14 defendants having filed their answer. If within ninety days the claimant has not
15 filed a certificate of merit, the action shall be dismissed.

16 (iv) If a claimant in a medical malpractice action elects to file a
17 certificate of merit, the filing of a single certificate of merit shall be sufficient to
18 meet the requirements of this Section, even if more than one defendant has been
19 named in the medical malpractice petition or is subsequently named.

20 (v) The filing of a request for review by a medical review panel, if elected
21 by the claimant to be filed as provided for in this Section, shall not be reportable
22 by any health care provider, the Louisiana Patient's Compensation Fund, or any other
23 entity to the Louisiana State Board of Medical Examiners, to any licensing authority,
24 committee, or board of any other state, or to any credentialing or similar agency,
25 committee, or board of any clinic, hospital, health insurer, or managed care
26 company.

27 Section 2. R.S. 40:1231.3(E), (G), (H), (I), and (J) are hereby repealed.

reasons for such finding in writing in its judgment and that portion of the award for future medical benefits and related benefits shall be made in accordance with proposed law.

Present law provides that if the total amount is for the maximum amount recoverable, including the value of the future medical care and related benefits, the amount of future medical care and related benefits that will be incurred after the date of the response to the special interrogatory by the jury or the court's finding shall be deducted from the total amount and shall be paid from the patient's compensation fund as incurred and presented for payment. Further provides that the remaining portion of the judgment, including the amount of future medical care and related benefits incurred up to the date of the response to the special interrogatory by the jury or the court's finding shall be paid in accordance with present law.

Proposed law repeals present law.

Present law provides that in all cases where judgment is rendered for a total amount less than the maximum amount recoverable, including any amount awarded on future medical care and related benefits that will be incurred after the date of the response to the special interrogatory by the jury or the court's finding, payment shall be in accordance with present law. Further provides that the provisions of present law shall be applicable to all malpractice claims.

Proposed law repeals present law.

Present law (R.S. 40:1231.3(C)) provides that once a judgment is entered in favor of a patient who is found to be in need of future medical care and related benefits that will be incurred after the date of the response to the special interrogatory by the jury or the court's finding or a settlement is reached between a patient and the patient's compensation fund in which the provision of medical care and related benefits that will be incurred after the date of settlement is agreed upon and continuing as long as medical or surgical attention is reasonably necessary, the patient may make a claim to the patient's compensation fund through the board for all future medical care and related benefits directly or indirectly made necessary by the health care provider's malpractice unless the patient refuses to allow them to be furnished.

Proposed law repeals present law and provides that in accordance with proposed law, the court shall order the funds awarded to be deposited by the Patient Compensation Fund into a qualified trust as defined in present law for the benefit of the victim with any residual assets upon the victim's death to be distributed to the victim's heirs or legatees.

Present law (R.S. 40:1231.3(F)) provides that nothing in present law shall be construed to prevent a patient and a health care provider and/or the patient's compensation fund from entering into a court-approved settlement agreement whereby medical care and related benefits shall be provided for a limited period of time only or to a limited degree.

Proposed law retains present law.

Present law (R.S. 40:1231.3(G)) provides that the patient's compensation fund shall be entitled to have a physical examination of the patient by a physician of the patient's compensation fund's choice from time to time for the purpose of determining the patient's continued need of future medical care and related benefits, subject to certain requirements in present law.

Proposed law repeals present law.

Present law (R.S. 40:1231.3(H)) provides that if a patient fails or refuses to submit to examination in accordance with a notice and if the requirements of present law (R.S. 40:1231.3(G)) have been satisfied, then the patient shall not be entitled to attorney fees in

any action to enforce rights pursuant to present law.

Proposed law repeals present law.

Present law (R.S. 40:1231.3(I)) provides that any physician selected by the patient's compensation fund and paid by the patient's compensation fund who shall make or be present at an examination of the patient conducted in pursuance of present law may be required to testify as to the conduct thereof and the findings made.

Proposed law repeals present law.

Present law (R.S. 40:1231.3(J)) provides that the patient's compensation fund shall pay all reasonable fees and costs of medical examinations and the costs and the fees of the medical expert witnesses in any proceeding in which the termination of medical care and related benefits is sought.

Proposed law repeals present law.

Present law (R.S. 40:1231.8(A)) provides that all malpractice claims against health care providers covered by present law, other than claims validly agreed for submission to a lawfully binding arbitration procedure, shall be reviewed by a medical review panel established as hereinafter provided for in present law.

Proposed law provides that all malpractice claims against health care providers covered by present law, other than claims validly agreed for submission to a lawfully binding arbitration procedure, shall at the claimant's election be filed in a court of competent jurisdiction with a certificate of merit or, prior to initiation of judicial proceedings, be reviewed by a medical review panel established as hereinafter provided for in proposed law.

Proposed law provides that if the claimant elects to file a certificate of merit pursuant to proposed law, the certificate of merit shall be executed in the form of an affidavit by the claimant, or the attorney for the claimant, or a licensed physician, declaring under oath one of the following:

- (1) The affiant has reviewed the facts of the case as an expert, or in consultation with at least one expert, who is qualified pursuant to present law to give expert testimony regarding the standard of care and negligence pertaining to the subject matter and medical specialty relevant to the particular medical malpractice claim being brought and that, on the basis of such review or consultation, a reasonable, good faith basis for the commencement of such action exists.
- (2) A physician licensed and board certified or otherwise qualified by education or experience in the medical subject matter of the claim has reviewed the available medical records pertinent to the alleged medical malpractice and has concluded that the acts or omissions of the defendant did not meet the medical standard of care applicable to the facts of the claim and caused or contributed to the claimant's injuries or death.

Proposed law provides that if a claimant elects to file a certificate of merit, but is unable to timely obtain the expert consultation required by proposed law because to do so would mean that prescription would bar bringing the medical malpractice action, then the claimant may file a certificate of merit within 90 days of all defendants having filed their answer. Further provides that if within 90 days the claimant has not filed a certificate of merit, the action shall be dismissed.

Proposed law provides that if a claimant in a medical malpractice action elects to file a certificate of merit, the filing of a single certificate of merit shall be sufficient to meet the requirements of proposed law, even if more than one defendant has been named in the

medical malpractice petition or is subsequently named.

Present law provides that the filing of a request for review by a medical review panel as provided for in present law, shall not be reportable by any health care provider, the Louisiana Patient's Compensation Fund, or any other entity to the Louisiana State Board of Medical Examiners, to any licensing authority, committee, or board of any other state, or to any credentialing or similar agency, committee, or board of any clinic, hospital, health insurer, or managed care company.

Proposed law retains present law but notes that the filing of a request for review by a medical review panel pursuant to proposed law happens if elected by the claimant to be filed.

Effective August 1, 2026.

(Amends R.S. 40:1231.2(B), 1231.3(A), (C) and (F), and 1231.8(A)(1); repeals R.S. 40:1231.3(E), (G), (H), (I) and (J))