

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S

1

SENATE BILL 941

Short Title: Medical Malpractice Insurance Task Force. (Public)

Sponsors: Senator Allran.

Referred to: Select Committee on Insurance and Civil Justice Reform.

April 3, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE MEDICAL MALPRACTICE INSURANCE CRISIS
3 TASK FORCE.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Task Force Established. – The Medical Malpractice Insurance
6 Crisis Task Force is established.

7 **SECTION 2.(a)** Membership. – The Medical Malpractice Insurance Crisis
8 Task Force shall be composed of 23 members. The members shall be as follows:

- 9 (1) The Commissioner of Insurance, or a designee thereof.
- 10 (2) The President of the North Carolina Medical Society, or a designee
11 thereof.
- 12 (3) The Executive Director of the North Carolina Academy of Trial
13 Attorneys, or a designee thereof.
- 14 (4) The Executive Director of the North Carolina Hospital Association, or
15 a designee thereof.
- 16 (5) The Director of the Administrative Office of the Courts, or a designee
17 thereof.
- 18 (6) One attorney who represents the plaintiffs' bar, appointed by the
19 President Pro Tempore of the Senate.
- 20 (7) One attorney who represents the plaintiffs' bar, appointed by the
21 Speaker of the House of Representatives.
- 22 (8) One practicing physician or other medical care professional, appointed
23 by the President Pro Tempore of the Senate.
- 24 (9) One practicing physician or other medical care professional, appointed
25 by the Speaker of the House of Representatives.
- 26 (10) One individual who represents the medical malpractice insurance
27 industry, appointed by the President Pro Tempore of the Senate.
- 28 (11) One individual who represents the public's interest in the availability
29 of quality health care and who does not represent the interests of the

1 insurance industry, attorneys, or medical care providers, appointed by
2 the Speaker of the House of Representatives.

3 (12) One attorney who represents the defendants' bar, appointed by the
4 President Pro Tempore of the Senate.

5 (13) One individual who represents senior citizens, appointed by the
6 Speaker of the House of Representatives.

7 (14) Five members of the Senate, appointed by the President Pro Tempore
8 of the Senate.

9 (15) Five members of the House of Representatives, appointed by the
10 Speaker of the House of Representatives.

11 **SECTION 2.(b) Vacancies.** – The appointing officer who made the initial
12 appointment shall fill a vacancy in the appointed membership and shall appoint a
13 replacement that satisfies the criterion for the member's initial appointment. In the event
14 a vacancy occurs in the cochair before the expiration of the cochair's term, the members
15 shall elect an acting cochair to serve for the remainder of the unexpired term. Three
16 absences from meetings shall be treated as a vacancy.

17 **SECTION 3. Mission.** – The mission of the Medical Malpractice Insurance
18 Crisis Task Force is to study, examine, and, if deemed necessary by the Task Force,
19 devise a comprehensive strategy that addresses the current medical malpractice
20 insurance crisis. This mission requires:

21 (1) Examining the trend in rising medical malpractice insurance rates.

22 (2) Identifying which medical specialty areas are most impacted by
23 increasing medical malpractice insurance premiums.

24 (3) Identifying all health care providers that are being adversely affected
25 by increasing medical malpractice insurance premiums, such as:
26 physicians and other medical care professionals, hospital emergency
27 rooms, trauma centers, birthing centers, nursing homes, private
28 hospitals, and teaching hospitals.

29 (4) Identifying the major interest groups.

30 (5) Determining the various factors that contributed to creating the current
31 crisis.

32 (6) Examining the current structure for addressing medical malpractice
33 and the current way to address medical error in general.

34 **SECTION 4. Duties.** – The Medical Malpractice Insurance Crisis Task
35 Force shall:

36 (1) Evaluate the effectiveness of the current structure for addressing
37 medical malpractice and the current way to address medical error in
38 general.

39 (2) Evaluate whether physicians and other medical care professionals who
40 are leaving their professions are doing so primarily due to increasing
41 medical malpractice insurance premiums or whether there are any
42 other systemic problems in the health care system that are causing the
43 flight.

44 (3) Consider the consequences of maintaining the status quo.

- 1 (4) Evaluate the current rates for medical malpractice insurance rates in
2 North Carolina and compare these rates with the rates in other states.
- 3 (5) Consider what other states are doing and what is being done at the
4 federal level to address the crisis in medical malpractice insurance.
- 5 (6) Consider options to address the crisis in medical malpractice insurance
6 while safeguarding patients' access to quality health care and fairly
7 compensating injured patients, for example: alternative dispute
8 resolution, patient safety systems, tort reforms, and insurance market
9 interventions.

10 **SECTION 5.** Report. – No later than December 1, 2004, the Medical
11 Malpractice Insurance Crisis Task Force shall submit a final report to include its
12 findings and recommendations to the 2005 General Assembly. The Task Force may also
13 make an interim report, including recommended legislation, to the 2004 Regular
14 Session of the 2003 General Assembly. The report may include draft legislation to
15 implement its recommendations along with an analysis of the fiscal impact of each
16 recommendation. The Task Force shall terminate upon filing its final report.

17 **SECTION 6.** Expenses of Members. – Members of the Medical Malpractice
18 Insurance Crisis Task Force shall receive per diem, subsistence, and travel allowances
19 in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

20 **SECTION 7.** Cochairs; Meetings. – The President Pro Tempore of The
21 Senate and the Speaker of the House of Representatives each shall designate a cochair
22 of the Medical Malpractice Insurance Crisis Task Force from among the appointees.
23 The Task Force shall meet upon the call of the cochairs. All members of the Task Force
24 are voting members. A majority of the members of the Task Force shall constitute a
25 quorum. The Legislative Services Commission shall grant adequate meeting space to
26 the Task Force in the State Legislative Building or the Legislative Office Building.

27 **SECTION 8.** Staff. – The Legislative Services Commission, through the
28 Legislative Services Officer, shall assign professional staff to assist the Medical
29 Malpractice Insurance Crisis Task Force in its work. The Senate Supervisor of Clerks
30 shall assign clerical staff to the Task Force, and the expenses related to the clerical
31 employees shall be borne by the Task Force.

32 **SECTION 9.** Powers. – The Medical Malpractice Insurance Crisis Task
33 Force, while in the discharge of official duties, may exercise all the powers provided
34 under the provisions of G.S. 120-19 through G.S. 120-19.4. The Task Force may
35 contract for consultant services as provided by G.S. 120-32.02.

36 **SECTION 10.** Cooperation by Government Agencies. – The Medical
37 Malpractice Insurance Crisis Task Force may call upon any department, agency,
38 institution, or officer of the State or any political subdivision of the State for facilities,
39 data, or other assistance.

40 **SECTION 11.** Funding. – There is appropriated from the General Fund to
41 the General Assembly for the Legislative Services Commission the sum of twenty-five
42 thousand dollars (\$25,000) for the 2003-2004 fiscal year and the sum of twenty-five
43 thousand dollars (\$25,000) for the 2004-2005 fiscal year for the costs of conducting the
44 Medical Malpractice Insurance Crisis Task Force established in this act.

1

SECTION 12. This act becomes effective July 1, 2003.