

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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HOUSE BILL 428

Short Title: Bifurcation of Medical Malpractice Trials. (Public)

Sponsors: Representatives England, Glazier, Rapp, Goforth (Primary Sponsors); Harrison, Justus, and Lucas.

Referred to: Health, if favorable, Judiciary I.

March 5, 2009

A BILL TO BE ENTITLED
AN ACT TO AUTHORIZE THE BIFURCATION OF ISSUES OF LIABILITY AND
DAMAGES IN CERTAIN MEDICAL MALPRACTICE ACTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1A-1, Rule 42(b), reads as rewritten:

"(b) Separate trials. –

(1) The court may in furtherance of convenience or to avoid prejudice and shall for considerations of venue upon timely motion order a separate trial of any claim, cross-claim, counterclaim, or third-party claim, or of any separate issue or of any number of claims, cross-claims, counterclaims, third-party claims, or issues.

(2) Upon motion of any party in an action that includes a claim commenced under Article 1G of Chapter 90 of the General Statutes involving a managed care entity as defined in G.S. 90-21.50, the court shall order separate discovery and a separate trial of any claim, cross-claim, counterclaim, or third-party claim against a physician or other medical provider.

(3) Upon motion of any party in a medical malpractice action commenced under Article 1B of Chapter 90 of the General Statutes wherein the plaintiff alleges damages greater than one hundred thousand dollars (\$100,000), the court shall order separate trials for the issue of liability and the issue of damages. Evidence relating solely to pecuniary damages shall not be admissible until the trier of fact has determined that the defendant is liable for medical malpractice. The same trier of fact that tried the issues relating to liability shall try the issues relating to damages."

SECTION 2. This act becomes effective October 1, 2009, and applies to actions filed on or after that date.

