

1 SB413  
2 173581-3  
3 By Senators Pittman, Melson and Scofield  
4 RFD: Health and Human Services  
5 First Read: 13-APR-16

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8 SYNOPSIS: Under existing law, if a physician or other  
9 health care practitioner injures a patient because  
10 he or she has failed to follow the governing  
11 standard of care in the applicable area of  
12 medicine, the patient can bring an action against  
13 the physician or health care practitioner for  
14 medical malpractice.

15 This bill would establish a Patient  
16 Compensation System to be administered by the  
17 Alabama Department of Public Health to provide for  
18 a mandatory alternative administrative procedure to  
19 address medical malpractice claims by a panel of  
20 physicians and medical experts to determine the  
21 payment of damages related to medical injuries.

22 This bill would establish a Patient  
23 Compensation Board to govern the system and to  
24 approve a schedule of compensation for confirmed  
25 medical injuries.

26 On or after January 1, 2017, this bill would  
27 require a person to submit an application with the

1 Patient Compensation System in order to obtain  
2 compensation for a medical injury.

3 This bill would provide that, upon a finding  
4 by the Office of Medical Review within the system  
5 of prima facie evidence that an application  
6 establishes a medical injury, a health care  
7 practitioner is afforded the opportunity to support  
8 or oppose the application, and contested  
9 applications are referred to an Independent Medical  
10 Review Panel for a determination of whether a  
11 medical injury exists. If it is determined that a  
12 medical injury occurred, the applicant shall be  
13 compensated according to the adopted schedule of  
14 compensation for medical injuries.

15 This bill would require health care  
16 practitioners to pay an annual contribution amount  
17 based upon the practitioner's type of practice,  
18 from which compensation for medical injuries would  
19 be paid by the Office of Compensation, created  
20 within the system.

21 This bill would also provide for the appeal  
22 of final determinations made in the system to the  
23 circuit court.

24  
25 A BILL  
26 TO BE ENTITLED  
27 AN ACT

1  
2           Relating to health; to create a Patient Compensation  
3 System to be administered by the Alabama Department of Public  
4 Health for the recovery of damages related to medical  
5 injuries; to define terms; to create the Patient Compensation  
6 Board; to provide for membership and duties of the board; to  
7 create the Office of Medical Review, the Office of  
8 Compensation, and the Office of Quality Improvement within the  
9 system; to provide for committees within the system; to  
10 provide procedures for the application for compensation for a  
11 medical injury; to provide for an evaluation by an independent  
12 medical review panel; to require recusal upon a conflict of  
13 interest; to provide procedures for the review of  
14 applications, a final determination, and payment of  
15 compensation to applicants; to provide for the appeal of final  
16 determinations in the system; to require the board to assess a  
17 contribution amount to be paid by health care practitioners  
18 from which compensation awards would be paid; to create the  
19 Patient Compensation Fund; and to require certain reports to  
20 the Governor and the Legislature.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22           Section 1. This act shall be known and may be cited  
23 as the Alabama Patient Compensation and Insurance Reduction  
24 Act of 2016.

25           Section 2. This act shall apply to any person  
26 seeking recovery of a medical injury, as defined in Section 3,  
27 where a health care practitioner licensed to practice in this

1 state performed medical treatment on a person; provided,  
2 however, if the proximate cause of the medical injury is in  
3 dispute, all proceedings under this act shall be exhausted  
4 prior to the commencement of any health care liability action  
5 against a health care practitioner.

6 Section 3. For the purposes of this act, the  
7 following terms shall have the following meanings:

8 (1) APPLICANT. A person who files an application  
9 under this act requesting the investigation of an alleged  
10 occurrence of a medical injury.

11 (2) APPLICATION. A request for investigation by the  
12 Patient Compensation System of an alleged occurrence of a  
13 medical injury. The term does not constitute a demand for  
14 payment under any applicable state or federal law.

15 (3) BOARD. The Patient Compensation Board created in  
16 Section 4.

17 (4) COLLATERAL SOURCE. Any payments made to the  
18 applicant, or made on the applicant's behalf, by or pursuant  
19 to any of the following:

20 a. The federal Social Security Act, 42 U.S.C. § 301  
21 et seq., any federal, state, or local income disability act,  
22 or any other public programs providing medical expenses,  
23 disability payments, or other similar benefits, except as  
24 prohibited by federal law.

25 b. Any health, sickness, or income disability  
26 insurance, automobile accident insurance that provides health  
27 benefits or income disability coverage, or any other similar

1 insurance benefits, except life insurance benefits available  
2 to the applicant, whether purchased by the applicant or  
3 provided by others.

4 c. Any contract or agreement of any group,  
5 organization, partnership, or corporation to provide, pay for,  
6 or reimburse the costs of hospital, medical, dental, or other  
7 health care services.

8 d. Any contractual or voluntary wage continuation  
9 plan provided by employers or by any other system intended to  
10 provide wages during a period of disability.

11 (5) COMPENSATION SCHEDULE. A schedule of damages for  
12 medical injuries.

13 (6) DEPARTMENT. The Alabama Department of Public  
14 Health.

15 (7) HEALTH CARE PRACTITIONER or PRACTITIONER. A  
16 medical practitioner licensed to practice medicine or  
17 osteopathy in this state, a dentist, or physician.

18 (8) INDEPENDENT MEDICAL REVIEW PANEL or PANEL. A  
19 panel of qualified physicians or other medical experts  
20 convened to review each application.

21 (9) MEDICAL INJURY. A personal injury or wrongful  
22 death due to medical treatment, including a missed diagnosis,  
23 where all of the following exist:

24 a. The health care practitioner performed a medical  
25 treatment on the applicant.

26 b. The applicant suffered a medical injury with  
27 damages.

1           c. The medical treatment was the proximate cause of  
2 the damages.

3           d. Based on the facts at the time of medical  
4 treatment, either of the following occurred:

5           1. An accepted method of medical services was not  
6 used for treatment.

7           2. An accepted method of medical services was used  
8 for treatment, but executed in a substandard fashion.

9           The term does not include an injury or wrongful  
10 death caused by a product defect in a drug or a device used  
11 during the medical treatment.

12           (10) PATIENT COMPENSATION SYSTEM or SYSTEM. The  
13 system created pursuant to Section 4.

14           Section 4. (a) The Patient Compensation System is  
15 created to be administered by the Alabama Department of Public  
16 Health. The department may contract with designated agents to  
17 provide for the administration of this act.

18           (b) (1) The Patient Compensation Board is established  
19 to govern the Patient Compensation System.

20           (2) The board shall be composed of the following 11  
21 members who shall represent the medical, legal, patient, and  
22 business communities from diverse geographic areas throughout  
23 this state:

24           a. Five members appointed by the Governor as  
25 follows:

1                   1. One member who is a physician licensed to  
2 practice medicine in this state and who actively practices in  
3 this state.

4                   2. One member who is an executive in the business  
5 community in this state.

6                   3. One member who is a hospital administrator in  
7 this state.

8                   4. One member who is a certified public accountant  
9 who actively practices in this state.

10                  5. One member who is an attorney licensed to  
11 practice in any jurisdiction in this state.

12                  b. Three members appointed by the President Pro  
13 Tempore of the Senate as follows:

14                   1. One member who is a physician licensed to  
15 practice medicine in this state and who actively practices in  
16 this state.

17                   2. One member who is a patient advocate.

18                   3. One member who is a resident of this state.

19                  c. Three members appointed by the Speaker of the  
20 House of Representatives as follows:

21                   1. One member who is a physician licensed to  
22 practice medicine in this state and who actively practices in  
23 this state.

24                   2. One member who is a patient advocate.

25                   3. One member who is a resident of this state.

26                  (3) The appointing authorities shall coordinate  
27 their appointments to assure that the membership of the board



1 is inclusive and reflects the racial, gender, geographic,  
2 urban, rural, and economic diversity of the state.

3 (4) Each member shall be appointed for a four-year  
4 term. For the purpose of providing staggered terms of the  
5 initial appointments, the five members appointed by the  
6 Governor shall be appointed to two-year terms and the  
7 remaining six members shall be appointed to three-year terms.  
8 If a vacancy occurs on the board before the expiration of a  
9 term, the original appointing authority shall appoint a  
10 successor to serve the unexpired portion of the term.

11 (5) The board shall annually elect from its  
12 membership one member to serve as chair of the board and one  
13 member to serve as vice chair.

14 (6) The first meeting of the board shall be held no  
15 later than January 1, 2017. Thereafter, the board shall meet  
16 at least quarterly upon the call of the chair. A majority of  
17 the board members constitutes a quorum. Meetings may be held  
18 by teleconference, web conference, or other electronic means.

19 (7) The members of the board shall serve without  
20 compensation, but they may be reimbursed for actual expenses  
21 incurred in the performance of their duties.

22 (8) The board shall have all of the following powers  
23 and duties:

24 a. Ensuring the operation of the Patient  
25 Compensation System in accordance with applicable federal and  
26 state laws, rules, and regulations.

1                   b. Entering into contracts as necessary to  
2 administer this act.

3                   c. Employing an executive director and other staff  
4 as are necessary to perform the functions of the Patient  
5 Compensation System, except that the Governor shall appoint  
6 the initial executive director.

7                   d. Approving the hiring of a chief compensation  
8 officer and chief medical officer, both as recommended by the  
9 executive director.

10                  e. Approving a schedule of compensation for medical  
11 injuries, as recommended by the Compensation Committee.

12                  f. Approving medical review panelists, as  
13 recommended by the Medical Review Committee.

14                  g. Approving an annual budget.

15                  h. Annually approving health care practitioner  
16 contribution amounts.

17                  (9) The executive director shall oversee the  
18 operation of the Patient Compensation System in accordance  
19 with this act.

20                  (10) The following staff shall be hired by the  
21 executive director and report directly to and serve at the  
22 pleasure of the executive director:

23                  a. The advocacy director, who shall do all of the  
24 following:

25                    1. Ensure that each applicant is provided high  
26 quality individual assistance throughout the process, from  
27 initial filing to disposition of the application.

1           2. Assist each applicant in determining whether to  
2 retain an attorney, which assistance shall include an  
3 explanation of possible fee arrangements and the benefits and  
4 disadvantages of retaining an attorney.

5           3. If the applicant seeks to file an application  
6 without an attorney, assist the applicant in filing the  
7 application.

8           4. Regularly provide status reports to the applicant  
9 or applicant's attorney regarding the applicant's application.

10           b. The chief compensation officer, who shall manage  
11 the Office of Compensation, created in subsection (c). The  
12 Chief Compensation Officer shall recommend to the Compensation  
13 Committee, created in subsection (d), a compensation schedule  
14 for each type of injury. The compensation schedule may include  
15 provisions for the consideration of specific economic damages  
16 associated with the medical injury. The chief compensation  
17 officer shall not be a licensed physician or an attorney.

18           c. The chief financial officer, who shall oversee  
19 the financial operations of the system, including the annual  
20 development of a budget.

21           d. The chief legal officer, who shall represent the  
22 system in all contested applications, oversee the operation of  
23 the Patient Compensation System to ensure compliance with  
24 established procedures, and ensure adherence to all applicable  
25 federal and state laws, rules, and regulations.

26           e. The chief medical officer, who shall be a  
27 physician licensed to practice medicine in this state and

1 shall recommend to the medical review committee a qualified  
2 list of panelists for independent medical review panels. The  
3 chief medical officer shall convene independent medical review  
4 panels as necessary to review applications and shall manage  
5 the Office of Medical Review, created in subsection (c).

6 f. The chief quality officer, who shall manage the  
7 Office of Quality Improvement, created in subsection (c).

8 (11) Board members shall be indemnified by the state  
9 for any liability they might incur while acting in the  
10 capacity of a board member.

11 (c) The following offices are established within the  
12 Patient Compensation System:

13 (1) The Office of Medical Review, which shall  
14 evaluate and, as necessary, investigate all applications in  
15 accordance with this act. For the purpose of an investigation  
16 of an application, the office shall have the power to  
17 administer oaths, take depositions, issue subpoenas, compel  
18 the attendance of witnesses and the production of papers,  
19 documents, and other evidence, and obtain patient records  
20 pursuant to the applicant's release of protected health  
21 information.

22 (2) The Office of Compensation, which shall allocate  
23 compensation for each application in accordance with the  
24 compensation schedule.

25 (3) The Office of Quality Improvement, which shall  
26 regularly review application data to conduct root cause  
27 analyses in order to develop and disseminate best practices

1 based on the reviews. In addition, the office shall capture  
2 and record safety-related data obtained during an  
3 investigation conducted by the Office of Medical Review,  
4 including the cause of the medical injury, the contributing  
5 factors, and any interventions that may have prevented the  
6 injury.

7 (d) (1) The board shall create a Medical Review  
8 Committee and a Compensation Committee. The board may create  
9 additional committees as necessary to assist in the  
10 performance of its duties and responsibilities.

11 (2)a. Each committee shall be composed of three  
12 board members chosen by a majority vote of the board.

13 b. The Medical Review Committee shall be composed of  
14 two physicians, each licensed to practice medicine in this  
15 state and a board member who is not an attorney. The board  
16 shall designate one of the physician committee members as  
17 chair of the committee.

18 c. The Compensation Committee shall be composed of a  
19 certified public accountant and two board members who are not  
20 physicians or attorneys. The certified public accountant shall  
21 serve as chair of the committee.

22 (3) Members of each committee shall serve two-year  
23 terms within their respective terms as board members. If a  
24 vacancy occurs on a committee, the board shall appoint a  
25 successor to serve the unexpired portion of the term. A  
26 committee member who is removed or resigns from the board  
27 shall be removed from the committee.

1 (4) The board shall annually designate a chair of  
2 each committee in accordance with this subsection.

3 (5) Each committee shall meet at least quarterly or  
4 at the specific direction of the board. Meetings may be held  
5 by teleconference, web conference, or other electronic means.

6 (6)a. The Medical Review Committee shall recommend  
7 to the board a comprehensive, multidisciplinary list of  
8 qualified physicians who shall serve on the independent  
9 medical review panels convened pursuant to subsection (e), as  
10 needed.

11 b. The Compensation Committee, in consultation with  
12 the chief compensation officer, shall annually review the  
13 compensation schedule set out in subsection (b) of Section 8,  
14 for purposes of making recommendations for revisions to the  
15 Legislature; provided, however, that the total compensation  
16 paid to injured patients shall not exceed the funds generated  
17 by the contribution amounts from physicians as determined  
18 pursuant to Section 8.

19 (e) The chief medical officer shall convene an  
20 independent medical review panel to evaluate whether an  
21 application constitutes a medical injury. Each panel shall be  
22 composed of an odd number of at least three panelists chosen  
23 from a list of panelists representing a like or similar  
24 specialty or practice as any practitioner named in the  
25 application, and shall be convened upon the call of the chief  
26 medical officer. Each panelist shall be paid a stipend as  
27 determined by the board for the panelist's service on the

1 panel. In order to expedite the review of applications, the  
2 chief medical officer, whenever practicable, may group related  
3 applications together for consideration by a single panel.

4 (f) (1) A board member, panelist, or employee of the  
5 Patient Compensation System may not engage in any conduct that  
6 constitutes a conflict of interest. A board member, panelist,  
7 or employee shall immediately disclose in writing the presence  
8 of a conflict of interest when the board member, panelist, or  
9 employee knows or should have known that the factual  
10 circumstances surrounding a particular application constitutes  
11 or constituted a conflict of interest. A board member,  
12 panelist, or employee who violates this subsection is subject  
13 to disciplinary action as determined by the board.

14 (2) For the purposes of this subsection, a conflict  
15 of interest means a situation in which the private interest of  
16 a board member, panelist, or employee could influence the  
17 board member, panelist, or employee's judgment in the  
18 performance of the board member, panelist, or employee's  
19 duties under this practitioner. A conflict of interest  
20 includes, but is not limited to, the following:

21 a. Any conduct that would lead a reasonable person  
22 having knowledge of all of the circumstances to conclude that  
23 a board member, panelist, or employee is biased against or in  
24 favor of an applicant.

25 b. Participation in any application in which the  
26 board member, panelist, or employee, or the parent, spouse, or

1 child of a board member, panelist, or employee, has a  
2 financial interest.

3 (g) (1) The board shall adopt rules to administer  
4 this act, which shall include rules addressing all of the  
5 following:

6 a. The application process, including forms  
7 necessary to collect relevant information from applicants.

8 b. Disciplinary procedures for a board member,  
9 panelist, or employee who violates the conflict of interest  
10 provisions set out in subsection (f).

11 c. Stipends paid to panelists for their service on  
12 an independent medical review panel. The stipends may be  
13 scaled in accordance with the relative scarcity of the  
14 practitioner's specialty, if applicable.

15 d. Payment of compensation awards through periodic  
16 payments and the apportionment of compensation among multiple  
17 practitioners, as recommended by the Compensation Committee.

18 (2) All rules adopted pursuant to this subsection  
19 shall be adopted in accordance with the Alabama Administrative  
20 Procedure Act.

21 Section 5. (a) On or after January 1, 2017, in order  
22 to obtain compensation for a medical injury, a person, or the  
23 person's legal representative, shall verbally submit an  
24 application with the Patient Compensation System through a  
25 toll free telephone number established by the system. The  
26 application shall include all of the following:



1           (1) The full name and address of the applicant, or  
2 the applicant's representative and the basis of the  
3 representation.

4           (2) The full name and address of any practitioner  
5 who provided medical treatment allegedly resulting in the  
6 medical injury.

7           (3) A brief statement of the facts and circumstances  
8 surrounding the medical injury that gave rise to the  
9 application.

10          (4) An authorization for release to the Office of  
11 Medical Review of all protected health information that is  
12 potentially relevant to the application.

13          (5) Any other information that the applicant  
14 believes will be beneficial to the investigatory process,  
15 including the names of potential witnesses.

16          (6) Documentation of any applicable private or  
17 governmental source of services or reimbursement relative to  
18 the medical injury.

19          (b) If an application is not complete, the Patient  
20 Compensation System, within 30 days after receipt of the  
21 initial application, shall notify the applicant in writing of  
22 any errors or omissions. An applicant shall have 30 days after  
23 receipt of the notification in which to correct the errors or  
24 omissions in the initial application.

25          (c) An application shall be filed within two years  
26 after the date on which a medical injury occurred. In no event

1 shall an application be filed more than five years after the  
2 date on which the medical treatment occurred.

3 (d) After the filing of an application, the  
4 applicant may supplement the initial application with  
5 additional information that the applicant believes may be  
6 beneficial in the resolution of the application.

7 (e) Nothing in this act shall prohibit an applicant  
8 or practitioner from retaining an attorney for the purpose of  
9 representing the applicant or practitioner in the review and  
10 resolution of an application.

11 Section 6. (a) (1) Individuals with relevant clinical  
12 expertise in the Office of Medical Review, within 10 days of  
13 the receipt of a completed application, shall determine  
14 whether there is prima facie evidence in the application that  
15 establishes a medical injury.

16 (2) If the Office of Medical Review determines that  
17 there is prima facie evidence in the application that  
18 establishes a medical injury, the office, by registered or  
19 certified mail, shall notify each practitioner named in the  
20 application within five days from the determination. The  
21 notification shall inform the practitioner that the  
22 practitioner may support the application to expedite the  
23 processing of the application. A practitioner shall have 15  
24 days from receipt of notification of an application to support  
25 the application. If the practitioner supports the application,  
26 the Office of Medical Review shall review the application in  
27 accordance with subsection (b). A finding that there is prima

1       facie evidence in the application that establishes a medical  
2       injury shall not be considered a final determination for  
3       purposes of appeal pursuant to Section 7.

4               (3) If the Office of Medical Review determines that  
5       the application does not provide prima facie evidence to  
6       establish a medical injury, the office shall send a rejection  
7       letter to the applicant by registered or certified mail, which  
8       shall inform the applicant of the applicant's right to appeal.  
9       A finding that there is not prima facie evidence in the  
10      application that establishes a medical injury shall be  
11      considered a final determination for purposes of appeal  
12      pursuant to Section 7.

13              (b) (1) An application that is supported by a  
14      practitioner in accordance with subsection (a) shall be  
15      reviewed by individuals with relevant clinical expertise in  
16      the Office of Medical Review within 30 days of the  
17      notification of the practitioner's support of the application  
18      to validate the application.

19              (2) If the Office of Medical Review finds that the  
20      application is valid, the Office of Compensation shall  
21      determine an award of compensation in accordance with this  
22      subsection. A finding that the application is valid and a  
23      subsequent award of compensation shall be considered a final  
24      determination for purposes of appeal pursuant to Section 7.

25              (3) If the Office of Medical Review finds that the  
26      application is not valid, the office shall immediately notify  
27      the applicant of the rejection of the application within five

1 business days from such finding, and, in the case of fraud,  
2 the Office of Medical Review shall immediately notify relevant  
3 law enforcement authorities. A finding that the application is  
4 not valid shall be considered a final determination for  
5 purposes of appeal pursuant to Section 7.

6 (c) (1) If the Office of Medical Review determines  
7 that the application provides prima facie evidence  
8 establishing a medical injury, and the practitioner does not  
9 elect to support the application, the office shall complete a  
10 thorough investigation of the application within 60 days after  
11 the determination by the office.

12 (2) The investigation shall be conducted by a  
13 multidisciplinary team with relevant clinical expertise and  
14 shall include a thorough investigation of all available  
15 documentation, witnesses, and other information, including  
16 national practice standards for the care and treatment of  
17 patients, as determined to exist and be relevant by the chief  
18 medical officer.

19 (3) Within 15 days after the completion of the  
20 investigation, the chief medical officer shall allow the  
21 applicant and the practitioner to access records, statements,  
22 and other information obtained in the course of the  
23 investigation in accordance with relevant state and federal  
24 laws.

25 (4) Within 30 days after the completion of the  
26 investigation, the chief medical officer shall convene an

1 independent medical review panel to determine whether the  
2 application constitutes a medical injury.

3 (5) The independent medical review panel shall have  
4 access to all redacted information obtained by the office in  
5 the course of its investigation of the application, including  
6 national practice standards for the care and treatment of  
7 patients as determined to exist and be relevant by the chief  
8 medical officer or the panel. If the panel determines that the  
9 medical treatment conformed to national practice standards for  
10 the care and treatment of patients, then the application shall  
11 be dismissed and the practitioner shall not be held  
12 responsible for the applicant's injury. The panel shall make a  
13 written determination within 10 days after the convening of  
14 the panel, and the panel shall notify the applicant and the  
15 practitioner within five business days from the determination.

16 (6)a. If the panel determines that none of the  
17 factors set out in paragraph b. apply, the application shall  
18 be dismissed, and the practitioner may not be held responsible  
19 for the applicant's medical injury.

20 b. If the panel, by a preponderance of the evidence,  
21 determines that the following factors exist, the panel shall  
22 report that the application constitutes a medical injury:

23 1. The practitioner performed a medical treatment on  
24 the applicant.

25 2. The applicant suffered a medical injury with  
26 damages.

1           3. The medical treatment was the proximate cause of  
2 the damages.

3           4. Based on the facts at the time of medical  
4 treatment, either of the following occurred:

5           (i) An accepted method of medical services was not  
6 used for treatment.

7           (ii) An accepted method of medical services was used  
8 for treatment, but executed in a substandard fashion.

9           c. A determination pursuant to paragraph a. or  
10 paragraph b. shall be considered a final determination for  
11 purposes of appeal pursuant to Section 7.

12           (d) Upon any final determination made pursuant to  
13 this section, the Office of Medical Review shall notify the  
14 practitioner by registered or certified mail of the right to  
15 appeal the determination within five days from the final  
16 determination. A practitioner shall have 15 days from the  
17 receipt of the letter in which to appeal the determination  
18 pursuant to Section 7.

19           (e) (1) If an independent medical review panel finds  
20 that an application constitutes a medical injury pursuant to  
21 subsection (c), and all appeals of that finding have been  
22 exhausted pursuant to Section 7, the Office of Compensation,  
23 within 30 days after either the finding of the panel or the  
24 exhaustion of all appeals of that finding, whichever occurs  
25 later, shall make a written determination of an award of  
26 compensation in accordance with the compensation schedule and  
27 the findings of the panel.

1           (2) The determination of an award of compensation  
2 shall be considered a final determination for purposes of  
3 appeal pursuant to Section 7. The office shall notify the  
4 applicant and the practitioner by registered or certified mail  
5 of the amount of compensation and shall explain the process to  
6 appeal the determination of the office. Either applicant shall  
7 have 15 days from receipt of the letter to appeal the  
8 determination of the office pursuant to Section 7.

9           (f) Compensation for each application shall be  
10 offset by any past and future collateral source payments. In  
11 addition, compensation may be paid by periodic payments as  
12 determined by the Office of Compensation in accordance with  
13 the rules adopted by the board.

14           (g) Within 15 days after either the acceptance of  
15 compensation by the applicant or the conclusion of all appeals  
16 pursuant to Section 7, whichever occurs later, the board shall  
17 provide compensation to the applicant in accordance with the  
18 final compensation award.

19           (h) The filing of an application involving a health  
20 care practitioner shall not be reportable to any applicable  
21 licensing entity, unless there is a separate determination by  
22 the board or the independent medical review panel that the  
23 practitioner represents an imminent risk of harm to the  
24 public.

25           (i) If a practitioner represents an imminent risk of  
26 harm to the public as determined by the independent medical  
27 review panel, the Patient Compensation System shall provide

1 the department and the appropriate state licensing entity of  
2 the practitioner, against whom a medical injury was determined  
3 to exist, with electronic access to applications. The  
4 department and the appropriate state licensing entity shall  
5 review the applications to determine whether any of the  
6 incidents that resulted in the application potentially  
7 involved conduct by the licensee that is subject to  
8 disciplinary action.

9 Section 7. An applicant, an applicant's legal  
10 representative, or a practitioner may appeal any final  
11 determination made in the Patient Compensation System as  
12 provided in this section.

13 (1) The only issues for consideration by the circuit  
14 court shall be whether the final determination was any of the  
15 following:

16 a. In violation of constitutional or statutory  
17 provisions.

18 b. In excess of the statutory authority of the  
19 system.

20 c. Made upon unlawful procedure.

21 d. Arbitrary or capricious or characterized by abuse  
22 of discretion or clearly unwarranted exercise of discretion.

23 e. Unsupported by evidence that is both substantial  
24 and material in the light of the entire record.

25 (2) The circuit court shall not modify any final  
26 determination but may reverse a determination for the reasons



1 set out in subdivision (1) and remand the case back to the  
2 Patient Compensation System for further action.

3 Section 8. (a) The board shall annually determine  
4 and assess a contribution amount that shall be paid by each  
5 health care practitioner for the payment of damages for  
6 medical injuries and for the administration of this act. The  
7 contribution amount shall be determined by January 1 of each  
8 year, and shall be based on the anticipated payment of damages  
9 and expenses of the administration of this act for the next  
10 fiscal year.

11 (b) The contribution amount assessed pursuant to  
12 subsection (a) may not exceed the amounts set out in the fol-  
13 lowing compensation rating model:

14 COMPENSATION RATING MODEL

15	Abdominal Surgery	\$12,100
16	Addictionology	\$3,200
17	Aerospace Medicine	\$3,200
18	Allergy	\$2,400
19	Anesthesia-Pain Mngt Inc Local	
20	Reg and Epid	\$8,000
21	Anesthesiology	\$4,400
22	Cardiac Surgery	\$14,600
23	Cardiovascular Disease-minor	
24	surgery	\$8,000

1	Cardiovascular Disease-no sur-	
2	gery	\$3,700
3	Colon and/or Rectal Surgery	\$7,400
4	Dermatology-Including Minor	
5	Surgery	\$2,400
6	Dermatology-Surgery, Includes	
7	Liposuction	\$5,400
8	Diabetes-Including Minor Sur-	
9	gery	\$4,400
10	Emergency Medicine-No Major	
11	Surgery	\$8,000
12	Endocrinology, Reproductive	\$8,000
13	Endocrinology-Including Minor	
14	Surgery	\$8,000
15	Forensic Medicine	\$2,400
16	FP/GP-Minor Surgery (No	
17	C-Sections)	\$9,600
18	FP/GP-No Surgery	\$4,400
19	Gastroenterology-Including Mi-	
20	nor Surgery	\$7,400
21	General Preventive Medicine-No	
22	Surgery	\$4,400
23	General Surgery N.O.C.	\$9,600
24	Geriatric-Including Minor Sur-	\$3,200

1	gery	
2	Geriatric-Surgery	\$11,300
3	Gynecology-Including Minor Sur-	
4	gery	\$4,400
5	Hand and Foot Surgery	\$12,400
6	Hematology-Including Minor Sur-	
7	gery	\$8,000
8	Hospitalist-No Surgery	\$5,400
9	Infectious Disease-Including	
10	Minor Surgery	\$8,000
11	Intensive Care Medicine	\$4,400
12	Internal Medicine-Minor Surgery	\$6,800
13	Internal Medicine-No Surgery	\$5,400
14	Legal Medicine	\$2,400
15	Medical Director Only-Managed	
16	Care Organization	\$2,400
17	Miscellaneous-Physicians Lower	
18	rated Specialty	\$6,800
19	Miscellaneous-Physicians Lower	
20	rated Specialty	\$8,000
21	Neonatology-Minor Surgery	\$6,400
22	Neoplastic Dis-	
23	eases/Oncology-Including Minor	
24	Surgery	\$12,400

1	Neoplastic Diseases-Surgery	\$8,700
2	Nephrology-Including Minor Sur-	
3	gery	\$4,400
4	Nephrology-Surgery	\$4,400
5	Neurological Surgery-Including	
6	Child	\$23,600
7	Neurological Surgery-Limited To	
8	The Back	\$9,600
9	Neurology- (Including	
10	Child)-Including Minor Surgery	\$12,100
11	Nuclear Medicine	\$3,200
12	Nutrition	\$3,200
13	Obstetrics and Gynecology Sur-	
14	gery	\$19,700
15	Occupational Medicine	\$3,200
16	Ophthalmology-No Surgery	\$2,400
17	Ophthalmology-Occular Plastic	\$10,200
18	Oral/Maxillofacial Surgery In-	
19	cludes DMD and DDS	\$12,400
20	Orthopedics Surgery	\$12,100
21	Orthopedics-Surgery-No Spinal	\$4,400
22	Otorhinolaryngology-Minor Sur-	
23	gery	\$4,400

1	Otorhinolaryngology-No Surgery	\$3,200
2	Otorhinolaryngology-Surgery,	
3	Cosmetic	\$11,300
4	Pathology-Including Minor Sur-	
5	gery	\$3,500
6	Pediatric-Including Minor Sur-	
7	gery	\$4,400
8	Pharmacology-Clinical	\$2,400
9	Physical Medicine and Rehabili-	
10	tation	\$2,800
11	Plastic Surgery N.O.C.	\$9,600
12	Psychiatry (Including Child)	\$3,200
13	Public Health	\$3,200
14	Pulmonary Diseases-No Surgery	\$8,000
15	Radiation-Therapy	\$4,400
16	Radiology-Diagnostic-Minor Sur-	
17	gery	\$6,800
18	Radiology-Diagnostic-No Surgery	\$4,400
19	Radiology-Major Invasive	\$10,200
20	Rheumatology-No Surgery	\$3,500
21	Thoracic Surgery	\$14,600
22	Traumatic Surgery	\$22,200
23	Urology-Surgery	\$8,000

1	Vascular Surgery	\$22,200
2	Weight Reduction Surgery	\$14,600

3 (c) The contribution assessed pursuant to this  
4 section shall be payable by each health care practitioner on  
5 July 1 of each year beginning on January 1, 2017. Each health  
6 care practitioner shall pay the contribution amount within 30  
7 days from the date that notice is delivered to the health care  
8 practitioner. If any health care practitioner fails to pay the  
9 contribution determined under this section within 30 days, the  
10 board shall notify the practitioner by certified or registered  
11 mail that the practitioner's license shall be subject to  
12 revocation if the contribution is not paid within 60 days from  
13 the date of the original notice.

14 (d) A health care practitioner who fails to pay the  
15 contribution amount assessed pursuant to this section within  
16 60 days from the date of the receipt of the original notice  
17 shall be subject to a licensure revocation action by the  
18 appropriate licensing entity.

19 (e) The total compensation paid to injured patients  
20 shall not exceed the funds generated pursuant to this section.

21 (f) There is created the Patient Compensation Fund  
22 within the State Treasury to be administered by the Alabama  
23 Department of Public Health. All amounts collected under this  
24 section shall be paid to the Patient Compensation Fund and may  
25 be expended for purposes authorized by this act. Any amounts

1 deposited in this fund shall remain in the fund until expended  
2 for purposes authorized by this act and shall not revert to  
3 the General Fund.

4 Section 9. No later than January 1, 2018, and  
5 annually thereafter, the board shall submit a report that  
6 describes the filing and disposition of applications from the  
7 prior fiscal year. The report shall include, in the aggregate,  
8 the number of applications, the disposition of such  
9 applications, and the compensation awarded. The report shall  
10 also provide recommendations, if any, regarding legislative  
11 changes that would improve the efficiency of the functions of  
12 the Patient Compensation System. The report shall be provided  
13 to the Governor, the President Pro Tempore of the Senate, and  
14 the Speaker of the House of Representatives.

15 Section 10. (a) This act applies exclusively to  
16 applications submitted under this act. An applicant whose  
17 injury is excluded from coverage under this act may file a  
18 claim for recovery of damages in accordance with other  
19 provisions of law.

20 (b) An individual who accepts a settlement offer  
21 related to a medical injury may not file an application under  
22 this act for the same medical injury. In addition, if an  
23 application has been filed prior to settlement of the claim  
24 for the medical injury in the application, and the applicant  
25 subsequently settles the claim with the health care  
26 practitioner, the applicant's application shall be withdrawn.

1           Section 11. Any constitutional provision or law  
2           granting immunity for the rendering of medical services to a  
3           patient by a health care practitioner shall remain in effect.  
4           Nothing in this act shall be construed to abrogate such  
5           immunity or provide relief under this act.

6           Section 12. (a) This act applies to medical injuries  
7           resulting from medical treatment provided on or after January  
8           1, 2017, and abrogates and supersedes any common law or  
9           statutory cause of action claiming liability for a medical  
10          injury resulting from medical treatment provided on or after  
11          January 1, 2017, against a health care practitioner.

12          (b) Medical malpractice actions claiming liability  
13          for a medical injury against a health care practitioner  
14          resulting from medical treatment provided prior to January 1,  
15          2017, shall be governed by Article 29 of Chapter 5, of Title  
16          6, Code of Alabama 1975, and the common law, as both existed  
17          prior to January 1, 2017.

18          Section 13. This act shall become effective  
19          immediately following its passage and approval by the  
20          Governor, or its otherwise becoming law.