

SEC. 202. LIMITATION ON NONECONOMIC DAMAGES IN HEALTH CARE LIABILITY ACTIONS.

(a) MAXIMUM AWARD OF NONECONOMIC DAMAGES.—In any health care liability action, in addition to actual damages or punitive damages, or both, a claimant may also be awarded noneconomic damages, including damages awarded to compensate injured feelings, such as pain and suffering and emotional distress. The maximum amount of such damages that may be awarded to a claimant shall be \$250,000. Such maximum amount shall apply regardless of the number of parties against whom the action is brought, and regardless of the number of claims or actions brought with respect to the health care injury. An award for future noneconomic damages shall not be discounted to present value. The jury shall not be informed about the limitation on noneconomic damages, but an award for noneconomic damages in excess of \$250,000 shall be reduced either before the entry of judgment or by amendment of the judgment after entry. An award of damages for noneconomic losses in excess of \$250,000 shall be reduced to \$250,000 before accounting for any other reduction in damages required by law. If separate awards of damages for past and future noneconomic damages are rendered and the combined award exceeds \$250,000, the award of damages for future noneconomic losses shall be reduced first.

(b) APPLICABILITY.—Except as provided in section 401, this section shall apply to any health care liability action brought in any Federal or State court on any theory or pursuant to any alternative dispute resolution process where noneconomic damages are sought. This section does not create a cause of action for noneconomic damages. This section does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of noneconomic damages. This section does not preempt any State law enacted before the date of the enactment of this Act that places a cap on the total liability in a health care liability action.

(d) DEFINITIONS.—As used in this section—

(a) The term “claimant” means any person who asserts a health care liability claim or brings a health care liability action, including a person who asserts or claims a right to legal or equitable contribution, indemnity or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent or a minor.

(b) The term “economic loss” has the same meaning as defined at section 203(3).

(c) The term “health care liability action” means a civil action brought in a State or Federal court or pursuant to any alternative dispute resolution process, against a health care provider, an entity which is obligated to provide or pay for health benefits under any health plan (including any person or entity acting under a contract or arrangement to provide or administer any health benefit), or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, in which the claimant alleges a claim (including third party claims, cross claims, counter claims, or distribution claims) based upon the provision of (or the failure to provide or pay for) health care services or the use of a medical product, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, or defendants or causes of action.

Page 17, line 10, insert “AND OTHER” after “PUNITIVE”.

After debate,

Mr. LINDER moved the previous question on the amendment and the resolution.

The question being put, viva voce, Will the House now order the previous question on the amendment and the resolution?

The SPEAKER pro tempore, Mr. EWING, announced that the yeas had it.

Mr. FROST objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 4, rule XV, and the call was taken by electronic device.

When there appeared { Yeas 234
Nays 191

41.8 [Roll No. 217] YEAS—234

- | | | |
|--------------|---------------|---------------|
| Allard | Fowler | Molinari |
| Archer | Fox | Moorhead |
| Bachus | Franks (CT) | Morella |
| Baessler | Franks (NJ) | Myers |
| Baker (CA) | Frelinghuysen | Myrick |
| Baker (LA) | Frisa | Nethercutt |
| Ballegger | Funderburk | Neumann |
| Barr | Gallegly | Ney |
| Barrett (NE) | Ganske | Norwood |
| Bartlett | Gekas | Nussle |
| Barton | Geren | Oxley |
| Bass | Gilchrest | Packard |
| Bateman | Gillmor | Parker |
| Bereuter | Gilman | Paxon |
| Bilbray | Goodlatte | Peterson (MN) |
| Bilirakis | Goodling | Petri |
| Billey | Goss | Pombo |
| Blute | Gunderson | Porter |
| Boehlert | Gutknecht | Portman |
| Boehner | Hall (TX) | Pryce |
| Bonilla | Hancock | Quillen |
| Bono | Hansen | Quinn |
| Brewster | Hastert | Radanovich |
| Brownback | Hastings (WA) | Ramstad |
| Bryant (TN) | Hayworth | Regula |
| Bunn | Hefley | Riggs |
| Bunning | Heineman | Roberts |
| Burr | Herger | Rogers |
| Burton | Hilleary | Rohrabacher |
| Buyer | Hobson | Roh-Lehtinen |
| Callahan | Hoekstra | Roth |
| Calvert | Hoke | Roukema |
| Camp | Horn | Royce |
| Canady | Houghton | Salmon |
| Castle | Hunter | Sanford |
| Chabot | Hutchinson | Saxton |
| Chambliss | Hyde | Scarborough |
| Chenoweth | Inglis | Schaefer |
| Christensen | Johnson (CT) | Schiff |
| Chrysler | Johnson, Sam | Seastrand |
| Clinger | Jones | Sensenbrenner |
| Coble | Kasich | Shadegg |
| Coburn | Kelly | Shaw |
| Collins (GA) | Kim | Shays |
| Combest | King | Shuster |
| Condit | Kingston | Skeen |
| Cooley | Klug | Smith (MI) |
| Cox | Knollenberg | Smith (NJ) |
| Crane | Kolbe | Smith (TX) |
| Crapo | LaHood | Smith (WA) |
| Creameans | Largent | Solomon |
| Cubin | Latham | Souder |
| Cunningham | LaTourette | Spence |
| Danner | Laughlin | Stearns |
| Davis | Lazio | Stenholm |
| Deal | Leach | Stockman |
| DeLay | Lewis (CA) | Stump |
| Diaz-Balart | Lewis (KY) | Talent |
| Dickey | Lightfoot | Tate |
| Doolittle | Linder | Taylor (NC) |
| Dornan | Livingston | Thomas |
| Dreier | Longley | Thornberry |
| Duncan | Lucas | Tiahrt |
| Dunn | Manzullo | Torkildsen |
| Ehlers | Martini | Upton |
| Ehrlich | McCollum | Vucanovich |
| Emerson | McCery | Waldholtz |
| English | McDade | Walker |
| Ensign | McHugh | Walsh |
| Everett | McInnis | Wamp |
| Ewing | McIntosh | Watts (OK) |
| Fawell | McKeon | Weldon (FL) |
| Fields (TX) | Metcalf | Weldon (PA) |
| Flanagan | Meyers | Weller |
| Foley | Mica | White |
| Forbes | Miller (FL) | Whitfield |

- | | | |
|--------|------------|--------|
| Wicker | Young (AK) | Zeliff |
| Wolf | Young (FL) | Zimmer |

NAYS—191

- | | | |
|--------------|---------------|---------------|
| Abercrombie | Graham | Ortiz |
| Ackerman | Green | Orton |
| Andrews | Gutierrez | Owens |
| Baldacci | Hall (OH) | Pallone |
| Barcia | Hamilton | Pastor |
| Barrett (WI) | Harman | Payne (NJ) |
| Becerra | Hastings (FL) | Payne (VA) |
| Beilenson | Hayes | Pelosi |
| Bentsen | Hefner | Peterson (FL) |
| Berman | Hilliard | Pickett |
| Bevill | Hinchev | Pomeroy |
| Bishop | Holden | Poshard |
| Bonior | Hoyer | Rahall |
| Borski | Jackson-Lee | Reed |
| Boucher | Jacobs | Reynolds |
| Browder | Jefferson | Richardson |
| Brown (CA) | Johnson (SD) | Rivers |
| Brown (FL) | Johnson, E.B. | Roemer |
| Brown (OH) | Johnston | Rose |
| Bryant (TX) | Kanjorski | Roybal-Allard |
| Cardin | Kaptur | Rush |
| Chapman | Kennedy (MA) | Sabo |
| Clay | Kennedy (RI) | Sanders |
| Clayton | Kennelly | Sawyer |
| Clement | Kildee | Schroeder |
| Clyburn | Klecza | Schumer |
| Coleman | Klink | Scott |
| Collins (IL) | LaFalce | Serrano |
| Collins (MI) | Lantos | Sisisky |
| Conyers | Levin | Skaggs |
| Costello | Lewis (GA) | Skelton |
| Coyne | Lincoln | Slaughter |
| Cramer | Lipinski | Spratt |
| de la Garza | Lofgren | Stark |
| D'Fazio | Lowe | Stokes |
| DeLauro | Luther | Studds |
| Deutsch | Maloney | Stupak |
| Dicks | Manton | Tanner |
| Dingell | Markey | Tauzin |
| Dixon | Martinez | Taylor (MS) |
| Doggett | Mascara | Tejeda |
| Dooley | Matsui | Thompson |
| Doyle | McCarthy | Thornton |
| Durbin | McDermott | Thurman |
| Edwards | McHale | Torres |
| Engel | McKinney | Torricelli |
| Eshel | McNulty | Towns |
| Evans | Meehan | Traficant |
| Farr | Meek | Tucker |
| Fattah | Menendez | Velazquez |
| Fazio | Mfume | Vento |
| Fields (LA) | Miller (CA) | Visclosky |
| Filner | Mineta | Volkmer |
| Flake | Minge | Ward |
| Foglietta | Mink | Waters |
| Ford | Moakley | Watt (NC) |
| Frank (MA) | Mollohan | Waxman |
| Frost | Montgomery | Williams |
| Furse | Murtha | Wilson |
| Gejdenson | Nadler | Wise |
| Gephardt | Neal | Wyden |
| Gibbons | Oberstar | Wynn |
| Gonzalez | Obey | Yates |
| Gordon | Olver | |

NOT VOTING—9

- | | | |
|-----------|------------|---------|
| Armey | Hostettler | Moran |
| Dellums | Istook | Rangel |
| Greenwood | LoBiondo | Woolsey |

So the previous question on the amendment and the resolution was ordered.

The question being put, viva voce, Will the House agree to said amendment?

The SPEAKER pro tempore, Mr. EWING, announced that the yeas had it.

So the amendment was agreed to.

The question being put, viva voce,

Will the House agree to said resolution, as amended?

The SPEAKER pro tempore, Mr. EWING, announced that the yeas had it.

Mr. MOAKLEY demanded a recorded vote on agreeing to said resolution, as amended, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the affirmative { Yeas 247
Nays 181

¶41.9 [Roll No. 218]
AYES—247

Allard	Franks (NJ)	Neumann
Archer	Frelinghuysen	Ney
Armey	Frisa	Norwood
Bachus	Funderburk	Nussle
Baesler	Gallegly	Oxley
Baker (CA)	Ganske	Packard
Baker (LA)	Gekas	Parker
Ballenger	Geran	Paxon
Barr	Gilchrest	Payne (VA)
Barrett (NE)	Gillmor	Peterson (MN)
Bartlett	Gilman	Petri
Barton	Goodlatte	Pickett
Bass	Goodling	Pombo
Bateman	Goss	Porter
Bereuter	Greenwood	Portman
Bevill	Gunderson	Pryce
Bilbray	Gutknecht	Quillen
Bilirakis	Hall (TX)	Quinn
Bliley	Hancock	Radanovich
Blute	Hansen	Ramstad
Boehlert	Hastert	Regula
Boehner	Hastings (WA)	Riggs
Bonilla	Hayes	Roberts
Bono	Hayworth	Rogers
Brewster	Hefley	Rohrabacher
Browder	Heineman	Ros-Lehtinen
Brownback	Herger	Roth
Bryant (TN)	Hilleary	Roukema
Bunn	Hobson	Royce
Bunning	Hoekstra	Salmon
Burr	Hoke	Sanford
Burton	Horn	Saxton
Buyer	Hostettler	Scarborough
Callahan	Houghton	Schaefer
Calvert	Hunter	Schiff
Camp	Hutchinson	Seastrand
Canady	Hyde	Sensenbrenner
Castle	Inglis	Shadegg
Chabot	Johnson (CT)	Shaw
Chambliss	Johnson, Sam	Shays
Chenoweth	Jones	Shuster
Christensen	Kasich	Sisisky
Chrysler	Kelly	Skeen
Clinger	Kim	Smith (MI)
Coble	King	Smith (NJ)
Coburn	Kingston	Smith (TX)
Collins (GA)	Klug	Smith (WA)
Combust	Knollenberg	Solomon
Condit	Kolbe	Souder
Cooley	LaHood	Spence
Cox	Largent	Stearns
Cramer	Latham	Stenholm
Crane	LaTourette	Stockman
Crapo	Laughlin	Stump
Creameans	Lazio	Talent
Cubin	Leach	Tanner
Cunningham	Lewis (CA)	Tate
Danner	Lewis (KY)	Tauzin
Davis	Lightfoot	Taylor (NC)
Deal	Linder	Thomas
DeLay	Livingston	Thornberry
Diaz-Balart	Longley	Tiahrt
Dickey	Lucas	Torkildsen
Doolittle	Manullo	Upton
Dornan	Martini	Vucanovich
Dreier	McCollum	Waldholtz
Duncan	McCrery	Walker
Dunn	McDade	Walsh
Ehlers	McHugh	Wamp
Ehrlich	McInnis	Watts (OK)
Emerson	McIntosh	Weldon (FL)
English	McKeon	Weldon (PA)
Ensign	Metcalf	Weller
Everett	Meyers	White
Ewing	Mica	Whitfield
Fawell	Miller (FL)	Wicker
Fields (TX)	Molinari	Wolf
Flanagan	Montgomery	Young (AK)
Foley	Moorhead	Young (FL)
Forbes	Morella	Zeliff
Fowler	Myers	Zimmer
Fox	Myrick	
Franks (CT)	Nethercutt	

NOES—181

Abercrombie	Becerra	Borski
Ackerman	Beilenson	Boucher
Andrews	Bentsen	Brown (CA)
Baldacci	Berman	Brown (FL)
Barcia	Bishop	Brown (OH)
Barrett (WI)	Bonior	Bryant (TX)

Cardin	Jackson-Lee	Pelosi
Chapman	Jacobs	Peterson (FL)
Clayton	Jefferson	Pomeroy
Clement	Johnson (SD)	Poshard
Clyburn	Johnson, E.B.	Rahall
Coleman	Johnston	Reed
Collins (IL)	Kanjorski	Reynolds
Collins (MI)	Kaptur	Richardson
Conyers	Kennedy (MA)	Rivers
Costello	Kennedy (RI)	Roemer
Coyne	Kennelly	Rose
de la Garza	Kildee	Roybal-Allard
DeFazio	Kleczka	Rush
Dellums	Klink	Sabo
DeLauro	LaFalce	Sanders
Dellums	Lantos	Sawyer
Deutsch	Levin	Schroeder
Dicks	Lewis (GA)	Schumer
Dingell	Lincoln	Scott
Dixon	Lipinski	Serrano
Doggett	Lofgren	Skaggs
Dooley	Lowey	Skelton
Doyle	Luther	Slaughter
Durbin	Maloney	Spratt
Edwards	Manton	Stark
Engel	Markey	Stokes
Eshoo	Martinez	Studds
Evans	Mascara	Stupak
Farr	Matsui	Taylor (MS)
Fattah	McCarthy	Tejeda
Fazio	McDermott	Thompson
Fields (LA)	McHale	Thornton
Filner	McKinney	Thurman
Flake	McNulty	Torres
Foglietta	Meehan	Torricelli
Ford	Meehan	Towns
Frank (MA)	Meek	Traficant
Frank	Menendez	Tucker
Frank	Miller (CA)	Tucker
Furse	Mineta	Velazquez
Gejdenson	Minge	Vento
Gephardt	Mink	Visclosky
Gibbons	Moakley	Volkmmer
Gonzalez	Mollohan	Ward
Gordon	Murtha	Waters
Graham	Nadler	Watt (NC)
Green	Neal	Waxman
Gutierrez	Neal	Williams
Hall (OH)	Oberstar	Wilson
Hamilton	Obey	Wise
Harman	Olver	Woolsey
Hastings (FL)	Ortiz	Wyden
Hefner	Orton	Wynn
Hilliard	Owens	Yates
Hinchev	Pallone	
Holden	Pastor	
Hoyer	Payne (NJ)	

NOT VOTING—6

Clay	LoBiondo	Moran
Istook	Mfume	Rangel

So the resolution, as amended, was agreed to.

A motion to reconsider the vote whereby said resolution, as amended, was agreed to was, by unanimous consent, laid on the table.

¶41.10 FURTHER MESSAGE FROM THE PRESIDENT

A further message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

¶41.11 PRODUCT LIABILITY LITIGATION

The SPEAKER pro tempore, Mr. EWING, pursuant to House Resolution 109 and rule XXIII, declared the House resolved into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes.

Mr. DREIER, Chairman of the Committee of the Whole, resumed the chair; and after some time spent therein,

¶41.12 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the

Whole on the following amendment submitted by Mrs. SCHROEDER:

Page 11, strike lines 17 through 24, and re-designate succeeding sections accordingly.

Page 17, line 25, insert "and noneconomic" before "loss".

It was decided in the negative { Yeas 179
Nays 247

¶41.13 [Roll No. 219]
AYES—179

Abercrombie	Furse	Neal
Ackerman	Gejdenson	Oberstar
Andrews	Gephardt	Obey
Baldacci	Gonzalez	Olver
Barcia	Gordon	Ortiz
Barrett (WI)	Green	Owens
Bateman	Gutierrez	Pallone
Becerra	Hall (OH)	Pastor
Beilenson	Harman	Payne (NJ)
Bentsen	Hastings (FL)	Peterson (FL)
Berman	Hefner	Poshard
Bevill	Hilliard	Rahall
Bishop	Hinchev	Reed
Bonior	Holden	Reynolds
Borski	Hoyer	Richardson
Boucher	Jackson-Lee	Rivers
Browder	Jefferson	Rose
Brown (CA)	Johnson (SD)	Roybal-Allard
Brown (FL)	Johnson, E.B.	Rush
Brown (OH)	Johnston	Sabo
Bryant (TX)	Kanjorski	Sanders
Cardin	Kaptur	Sawyer
Chapman	Kennedy (MA)	Schiff
Clay	Kennedy (RI)	Schroeder
Clayton	Kennelly	Schumer
Clyburn	Kildee	Scott
Coble	Kleczka	Serrano
Coleman	Klink	Skaggs
Collins (IL)	LaFalce	Skelton
Collins (MI)	Lantos	Slaughter
Conyers	Levin	Spratt
Costello	Lewis (GA)	Stark
Coyne	Lincoln	Stokes
Cramer	Lipinski	Studds
de la Garza	Lofgren	Stupak
DeFazio	Lowey	Tejeda
DeLauro	Luther	Thompson
Dellums	Maloney	Thornton
Deutsch	Manton	Thurman
Diaz-Balart	Markey	Torres
Dicks	Martinez	Torricelli
Dingell	Mascara	Towns
Dixon	Matsui	Traficant
Doggett	McCarthy	Tucker
Doyle	McDermott	Velazquez
Durbin	McHale	Vento
Engel	McKinney	Visclosky
English	McNulty	Volkmmer
Eshoo	Meehan	Ward
Evans	Meek	Waters
Farr	Menendez	Watt (NC)
Fattah	Mfume	Waxman
Fazio	Miller (CA)	Williams
Fields (LA)	Mineta	Wilson
Filner	Minge	Wise
Flake	Mink	Woolsey
Foglietta	Moakley	Wyden
Ford	Morella	Wynn
Frank (MA)	Murtha	Yates
Frost	Nadler	

NOES—247

Allard	Bunn	Crapo
Archer	Bunning	Creameans
Armey	Burr	Cubin
Bachus	Burton	Cunningham
Baesler	Buyer	Danner
Baker (CA)	Callahan	Davis
Baker (LA)	Calvert	Deal
Ballenger	Camp	DeLay
Barr	Canady	Dickey
Barrett (NE)	Castle	Dooley
Bartlett	Chabot	Doolittle
Barton	Chambliss	Dornan
Bass	Chenoweth	Dreier
Bereuter	Christensen	Duncan
Bilbray	Chrysler	Dunn
Bilirakis	Clement	Edwards
Bliley	Clinger	Ehlers
Blute	Coburn	Ehrlich
Boehlert	Collins (GA)	Emerson
Bonilla	Combust	Ensign
Bono	Condit	Everett
Brewster	Cooley	Ewing
Brownback	Cox	Fawell
Bryant (TN)	Crane	Fields (TX)