

By Senator Cowin

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A bill to be entitled
An act relating to medical malpractice;
creating s. 766.1024, F.S.; limiting
noneconomic damages in actions for medical
malpractice; creating s. 766.1027, F.S.;
limiting attorney's fees in medical malpractice
actions; defining the terms "recovered" and
"health care provider"; providing an effective
date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 766.1024, Florida Statutes, is
created to read:

766.1024 Limitation on noneconomic damages.--In any
action for medical malpractice, recovery for noneconomic
damages, including, but not limited to, pain and suffering,
inconvenience, physical impairment, mental anguish,
disfigurement, and loss of capacity for enjoyment of life, is
limited to a maximum of \$250,000 per incident.

Section 2. Section 766.1027, Florida Statutes, is
created to read:

766.1027 Actions for medical malpractice; limits on
attorney's fees; periodic payments.--

(1) An attorney may not contract for or collect a
contingency fee for representing any person seeking damages in
connection with an action for injury or damage against a
health care provider based upon such person's alleged
professional negligence in excess of the following limits:

(a) Forty percent of the first \$50,000 recovered.

1 (b) Thirty-three and one-third percent of the next
2 \$50,000 recovered.

3 (c) Twenty-five percent of the next \$500,000
4 recovered.

5 (d) Fifteen percent of any amount recovered in excess
6 of \$600,000.

7
8 This limitation applies regardless of whether the recovery is
9 by settlement, arbitration, or judgment or whether the person
10 for whom the recovery is made is a responsible adult, a child,
11 or incompetent.

12 (2) If periodic payments are to be awarded to the
13 plaintiff, the court shall place a total value on these
14 payments based upon the projected life expectancy of the
15 plaintiff and include this amount in computing the total award
16 from which attorney's fees are calculated under this section.

17 (3) As used in this section, the term:

18 (a) "Recovered" means the net sum recovered after
19 deducting any disbursements or costs incurred in connection
20 with prosecution or settlement of the claim. Costs of medical
21 care incurred by the plaintiff and costs or charges for office
22 overhead expenses of the attorney are not deductible
23 disbursements or costs for such purpose.

24 (b) "Health care provider" has the meaning ascribed in
25 s. 766.1115(3)(d). The term includes the legal representatives
26 of such a person.

27 Section 3. This act shall take effect July 1, 2003.

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SENATE SUMMARY

Limits noneconomic damages in actions for medical malpractice to \$250,000 per incident. Limits the percentage of recovery in an action for medical malpractice which may be paid in attorney's fees.