



HB 0753

2003

1 A bill to be entitled

2 An act relating to medical malpractice; creating s.
3 766.1024, F.S.; limiting noneconomic damages in actions
4 for medical malpractice; creating s. 766.1027, F.S.;
5 limiting attorney's fees in medical malpractice actions;
6 defining the terms "recovered" and "health care provider";
7 providing an effective date.

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

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

13 766.1024 Limitation on noneconomic damages.--In any action
14 for medical malpractice, recovery for noneconomic damages,
15 including, but not limited to, pain and suffering,
16 inconvenience, physical impairment, mental anguish,
17 disfigurement, and loss of capacity for enjoyment of life, is
18 limited to a maximum of \$250,000 per incident.

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

21 766.1027 Actions for medical malpractice; limits on
22 attorney's fees; periodic payments.--

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

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

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



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

32 (d) Fifteen percent of any amount recovered in excess of
33 \$600,000.

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35 This limitation applies regardless of whether the recovery is by
36 settlement, arbitration, or judgment or whether the person for
37 whom the recovery is made is a responsible adult, a child, or
38 incompetent.

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

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

45 (a) "Recovered" means the net sum recovered after
46 deducting any disbursements or costs incurred in connection with
47 prosecution or settlement of the claim. Costs of medical care
48 incurred by the plaintiff and costs or charges for office
49 overhead expenses of the attorney are not deductible
50 disbursements or costs for such purpose.

51 (b) "Health care provider" has the meaning ascribed in s.
52 766.1115(3)(d). The term includes the legal representatives of
53 such a person.

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