
By: **The Speaker (By Request - Administration) and Delegates Arnick, Aumann, Bartlett, Bates, Boschert, Boteler, Boutin, Cluster, Costa, Cryor, Donoghue, Eckardt, Edwards, Elliott, Elmore, Frank, Fulton, Impallaria, Jennings, Kach, Kelly, Krebs, Leopold, McComas, McConkey, McDonough, McKee, McMillan, Miller, Minnick, O'Donnell, Parrott, Shank, Shewell, Stocksdale, Stull, Trueschler, Walkup, and Weir**

Introduced and read first time: January 26, 2005

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Medical Injury Compensation Reform Act**

3 FOR the purpose of requiring a certificate of a qualified expert for each defendant in
4 certain causes of action; altering certain provisions relating to the amount of
5 time an expert may devote to certain activities; requiring the itemization of
6 certain damages; allowing the introduction of and consideration of certain
7 evidence relating to damages under certain circumstances; establishing a
8 certain limitation on noneconomic damages for medical injuries for causes of
9 action arising on or after a certain date; providing that this limitation applies in
10 the aggregate to all claims arising from the same medical injury; requiring the
11 itemization of certain awards and verdicts; requiring that a health care
12 malpractice award or verdict be reduced to the extent of certain payments,
13 reimbursements, or indemnification, less certain costs, under certain
14 circumstances; prohibiting certain recovery and certain claims of subrogation
15 relating to certain payments, reimbursements, or indemnification under certain
16 circumstances; providing that certain provisions relating to advanced payments
17 do not apply to certain causes of action; prohibiting a jury from being informed
18 of certain limitations; requiring an award or verdict of economic damages for a
19 medical injury exclude certain amounts for past or future medical expenses and
20 past or future loss of earnings; requiring periodic payments of certain damages
21 in certain awards or verdicts under certain circumstances; establishing
22 procedures and requirements relating to periodic payments and annuities for
23 funding periodic payments; providing that certain provisions relating to
24 damages in personal injury and wrongful death cases apply to causes of action
25 for medical injuries arising before a certain date and do not apply to causes of
26 action for medical injuries arising on or after a certain date; increasing the
27 number of jurors in civil actions involving medical injuries; altering the rate of
28 interest on certain judgments; altering a certain definition to provide that
29 practice of medicine includes engaging in testimony or offering an opinion as a

1 medical expert witness under certain circumstances; providing certain
2 exemptions from licenses; providing that certain medical expert witnesses are
3 subject to certain hearing and disciplinary proceedings by the Board of
4 Physicians under certain circumstances; repealing certain requirements
5 relating to purchase of policies from and commissions paid by the Medical
6 Mutual Liability Insurance Society; defining certain terms; making stylistic
7 changes; providing for the application of this Act; making the provisions of this
8 Act severable; and generally relating to medical injury compensation reform.

9 BY repealing and reenacting, with amendments,
10 Article - Courts and Judicial Proceedings
11 Section 3-2A-04(b)(1)(i)1. and (4), 3-2A-05(h), 3-2A-06(f), 3-2A-09(a),
12 3-2A-10, and 11-108(e)
13 Annotated Code of Maryland
14 (2002 Replacement Volume and 2004 Supplement)
15 (As enacted by Chapter 5 of the Acts of the General Assembly of the 2004 Special
16 Session)

17 BY repealing and reenacting, with amendments,
18 Article - Courts and Judicial Proceedings
19 Section 3-2A-05(e), (i), and (j), 3-2A-06(g), (h), and (i), 3-2A-08, 8-306,
20 11-107(a), and 11-109(c) and (d)
21 Annotated Code of Maryland
22 (2002 Replacement Volume and 2004 Supplement)

23 BY adding to
24 Article - Courts and Judicial Proceedings
25 Section 3-2A-05(b)(4), 3-2A-05(j), 3-2A-06(h), 3-2A-09A, 3-2A-09B,
26 3-2A-10, 9-124, and 11-109(d) and (e)
27 Annotated Code of Maryland
28 (2002 Replacement Volume and 2004 Supplement)

29 BY repealing and reenacting, without amendments,
30 Article - Courts and Judicial Proceedings
31 Section 11-108(c)
32 Annotated Code of Maryland
33 (2002 Replacement Volume and 2004 Supplement)
34 (As enacted by Chapter 5 of the Acts of the General Assembly of the 2004 Special
35 Session)

36 BY repealing and reenacting, with amendments,
37 Article - Health Occupations
38 Section 14-101(l)(1), 14-302(4)(ii) and (5)(ii)2., 14-401(i), and 14-404(a)
39 Annotated Code of Maryland

1 (2000 Replacement Volume and 2004 Supplement)

2 BY adding to

3 Article - Health Occupations

4 Section 14-302(6)

5 Annotated Code of Maryland

6 (2000 Replacement Volume and 2004 Supplement)

7 BY repealing

8 Article - Insurance

9 Section 24-214

10 Annotated Code of Maryland

11 (2002 Replacement Volume and 2004 Supplement)

12 (As enacted by Chapter 5 of the Acts of the General Assembly of the 2004 Special

13 Session)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article - Courts and Judicial Proceedings**

17 3-2A-04.

18 (b) Unless the sole issue in the claim is lack of informed consent:

19 (1) (i) 1. Except as provided in subparagraph (ii) of this paragraph,

20 a claim or action filed after July 1, 1986, shall be dismissed, without prejudice, if the

21 claimant or plaintiff fails to file FOR EACH DEFENDANT a certificate of a qualified

22 expert with the Director attesting to departure from standards of care, and that the

23 departure from standards of care is the proximate cause of the alleged injury, within

24 90 days from the date of the complaint;

25 (4) A health care provider who attests in a certificate of a qualified

26 expert or who testifies in relation to a proceeding before an arbitration panel or a

27 court concerning compliance with or departure from standards of care may not devote

28 annually more than 20 percent of the expert's professional activities to activities that

29 [directly involve testimony in personal injury claims]:

30 (I) ARE UNRELATED TO THE CARE OR TREATMENT OF A PATIENT;

31 AND

32 (II) LEAD OR COULD LEAD TO TESTIMONY IN PERSONAL INJURY

33 CLAIMS.

1 3-2A-05.

2 (b) (4) EVIDENCE THAT A CLAIMANT HAS RECEIVED OR WILL RECEIVE
3 UNCOMPENSATED CARE OR SERVICES IS ADMISSIBLE AND MAY BE CONSIDERED BY
4 THE ARBITRATION PANEL WHEN AWARDING DAMAGES.

5 (e) (1) The arbitration panel shall first determine the issue of liability with
6 respect to a claim referred to it.

7 (2) If the arbitration panel determines that the health care provider is
8 not liable to the claimant or claimants the award shall be in favor of the health care
9 provider.

10 (3) If the arbitration panel determines that a health care provider is
11 liable to the claimant or claimants, it shall then consider, itemize, assess, and
12 apportion appropriate damages against one or more of the health care providers that
13 it has found to be liable.

14 (4) [The award shall itemize by category and amount any damages
15 assessed for incurred medical expenses, rehabilitation costs, and loss of earnings.
16 Damages assessed for any future expenses, costs, and losses shall be itemized
17 separately.] THE ARBITRATION PANEL SHALL ITEMIZE THE AWARD TO REFLECT THE
18 MONETARY AMOUNT INTENDED FOR ANY OF THE FOLLOWING DAMAGES THAT ARE
19 APPLICABLE TO THE CLAIM:

20 (I) PAST MEDICAL EXPENSES;

21 (II) FUTURE MEDICAL EXPENSES;

22 (III) PAST LOSS OF EARNINGS;

23 (IV) FUTURE LOSS OF EARNINGS;

24 (V) PAST PECUNIARY LOSS;

25 (VI) FUTURE PECUNIARY LOSS;

26 (VII) OTHER PAST ECONOMIC DAMAGES;

27 (VIII) OTHER FUTURE ECONOMIC DAMAGES;

28 (IX) PAST NONECONOMIC DAMAGES; AND

29 (X) FUTURE NONECONOMIC DAMAGES.

30 (h) [(1)] A party may apply to the arbitration panel to modify or correct an
31 award as to liability, damages, or costs in accordance with § 3-222 of this title.

32 (I) (1) THIS SUBSECTION APPLIES TO A CAUSE OF ACTION ARISING BEFORE
33 JUNE 1, 2005.

1 (2) (i) The application TO MODIFY OR CORRECT AN AWARD may
2 include a request that damages be reduced to the extent that the claimant has been or
3 will be paid, reimbursed, or indemnified under statute, insurance, or contract for all
4 or part of the damages assessed.

5 (ii) The panel chairman shall receive such evidence in support and
6 opposition to a request for reduction, including evidence of the cost to obtain such
7 payment, reimbursement, or indemnity.

8 (iii) After hearing the evidence in support and opposition to the
9 request, the panel chairman may modify the award if satisfied that modification is
10 supported by the evidence.

11 (iv) The award may not be modified as to any sums paid or payable
12 to a claimant under any workers' compensation act, criminal injuries compensation
13 act, employee benefit plan established under a collective bargaining agreement
14 between an employer and an employee or a group of employers and a group of
15 employees that is subject to the provisions of the federal Employee Retirement
16 Income Security Act of 1974, program of the Department of Health and Mental
17 Hygiene for which a right of subrogation exists under §§ 15-120 and 15-121.1 of the
18 Health - General Article, or as a benefit under any contract or policy of life insurance
19 or Social Security Act of the United States.

20 (v) An award may not be modified as to any damages assessed for
21 any future expenses, costs, and losses unless:

22 1. The panel chairman orders the defendant or the
23 defendant's insurer to provide adequate security; or

24 2. The insurer is authorized to do business in this State and
25 maintains reserves in compliance with rules of the Insurance Commissioner to assure
26 the payment of all such future damages up to the amount by which the award has
27 been modified as to such future damages in the event of termination.

28 (vi) Except as expressly provided by federal law, no person may
29 recover from the claimant or assert a claim of subrogation against a defendant for any
30 sum included in the modification of an award.

31 (J) (1) THIS SUBSECTION APPLIES TO A CAUSE OF ACTION ARISING ON OR
32 AFTER JUNE 1, 2005.

33 (2) IN AN ARBITRATION PROCEEDING:

34 (I) A DEFENDANT MAY INTRODUCE EVIDENCE THAT THE
35 CLAIMANT HAS BEEN OR WILL BE PAID, REIMBURSED, OR INDEMNIFIED BY A
36 GOVERNMENT OR THROUGH A GOVERNMENTAL PROGRAM, BY INSURANCE, OR
37 UNDER CONTRACT FOR ALL OR PART OF THE DAMAGES ASSESSED; OR

38 (II) IF THE DEFENDANT INTRODUCES EVIDENCE UNDER ITEM (I)
39 OF THIS PARAGRAPH, THE CLAIMANT MAY INTRODUCE EVIDENCE:

1 1. OF THE COST TO OBTAIN THE PAYMENT,
2 REIMBURSEMENT, OR INDEMNITY; AND

3 2. THAT A PERSON OR A GOVERNMENTAL ENTITY HAS A
4 RIGHT OF SUBROGATION FOR RECOVERY OF ANY COSTS PAID TO THE PLAINTIFF,
5 AND THE AMOUNT OF THE SUBROGATED INTEREST.

6 (3) IF EVIDENCE IS INTRODUCED UNDER PARAGRAPH (2) OF THIS
7 SUBSECTION, THE ARBITRATION PANEL SHALL:

8 (I) CONSIDER THE EVIDENCE; AND

9 (II) REDUCE OR MODIFY THE AWARD IF SATISFIED THAT A
10 REDUCTION OR MODIFICATION IS SUPPORTED BY THE EVIDENCE.

11 (4) A DEFENDANT MAY NOT INTRODUCE EVIDENCE CONCERNING ANY
12 FUTURE EXPENSES, COSTS, AND LOSSES AND AN AWARD MAY NOT BE MODIFIED AS
13 TO THESE DAMAGES UNLESS:

14 (I) THE ARBITRATION PANEL IS ASSURED THAT THE DEFENDANT
15 OR THE DEFENDANT'S INSURER CAN PROVIDE ADEQUATE SECURITY AND, AFTER AN
16 AWARD, ORDERS THE DEFENDANT OR THE DEFENDANT'S INSURER TO PROVIDE
17 ADEQUATE SECURITY TO ENSURE THE PAYMENT OF ALL FUTURE DAMAGES UP TO
18 THE AMOUNT BY WHICH THE AWARD HAS BEEN MODIFIED IN THE EVENT THAT THE
19 OTHER SOURCE OF COMPENSATION IS TERMINATED; OR

20 (II) THE DEFENDANT'S INSURER IS AUTHORIZED TO DO BUSINESS
21 IN THIS STATE AND MAINTAINS RESERVES IN COMPLIANCE WITH RULES OF THE
22 INSURANCE COMMISSIONER TO ENSURE THE PAYMENT OF ALL FUTURE DAMAGES
23 UP TO THE AMOUNT BY WHICH THE AWARD HAS BEEN MODIFIED IN THE EVENT
24 THAT THE OTHER SOURCE OF COMPENSATION IS TERMINATED.

25 (5) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS
26 SUBSECTION OR AS EXPRESSLY PROVIDED BY FEDERAL LAW, A PERSON MAY NOT
27 RECOVER FROM THE CLAIMANT OR ASSERT A CLAIM OF SUBROGATION AGAINST A
28 DEFENDANT FOR ANY SUM INCLUDED IN THE MODIFICATION OF A VERDICT.

29 [(i)] (K) Subject to § 3-2A-06 of this subtitle, the award of the panel shall be
30 final and binding on the parties. After the time for either rejecting or modifying the
31 award has expired the Director may, or, when requested by any party, shall file a copy
32 of the award with the circuit court having proper venue, as provided in Title 6,
33 Subtitle 2 of this article and the court shall confirm the award. Upon confirmation the
34 award shall constitute a final judgment.

35 [(j)] (L) Except for time limitations pertaining to the filing of a claim or
36 response, the Director or the panel chairman, for good cause shown, may lengthen or
37 shorten the time limitations prescribed in subsections (b) and (g) of this section and §
38 3-2A-04 of this article.

1 3-2A-06.

2 (f) (1) EVIDENCE THAT A CLAIMANT HAS RECEIVED OR WILL RECEIVE
3 UNCOMPENSATED CARE OR SERVICES IS ADMISSIBLE AND MAY BE CONSIDERED BY
4 THE TRIER OF FACT WHEN AWARDING DAMAGES.

5 (2) [Upon timely request, the trier of fact shall by special verdict or
6 specific findings itemize by category and amount any damages assessed for incurred
7 medical expenses, rehabilitation costs, and loss of earnings. Damages assessed for
8 any future expenses, costs, and losses shall be itemized separately. If the verdict or
9 findings include any amount for such expenses, costs, and losses, a] THE TRIER OF
10 FACT SHALL ITEMIZE THE VERDICT TO REFLECT THE MONETARY AMOUNT
11 INTENDED FOR ANY OF THE FOLLOWING DAMAGES THAT ARE APPLICABLE TO THE
12 ACTION:

13 (I) PAST MEDICAL EXPENSES;

14 (II) FUTURE MEDICAL EXPENSES;

15 (III) PAST LOSS OF EARNINGS;

16 (IV) FUTURE LOSS OF EARNINGS;

17 (V) PAST PECUNIARY LOSS;

18 (VI) FUTURE PECUNIARY LOSS;

19 (VII) OTHER PAST ECONOMIC DAMAGES;

20 (VIII) OTHER FUTURE ECONOMIC DAMAGES;

21 (IX) PAST NONECONOMIC DAMAGES; AND

22 (X) FUTURE NONECONOMIC DAMAGES.

23 (G) (1) THIS SUBSECTION APPLIES TO A CAUSE OF ACTION ARISING BEFORE
24 JUNE 1, 2005.

25 (2) A party filing a motion for a new trial may object to the damages as
26 excessive on the ground that the plaintiff has been or will be paid, reimbursed, or
27 indemnified to the extent and subject to the limits stated in § 3-2A-05(h) of this
28 subtitle.

29 [(2)] (3) The court shall hold a hearing and receive evidence on the
30 objection.

31 [(3)] (4) (i) If the court finds from the evidence that the damages are
32 excessive on the grounds stated in § 3-2A-05(h) of this subtitle, subject to the limits
33 and conditions stated in § 3-2A-05(h) of this subtitle, it may grant a new trial as to
34 such damages or may deny a new trial if the plaintiff agrees to a remittitur of the

1 excess and the order required adequate security when warranted by the conditions
2 stated in § 3-2A-05(h) of this subtitle.

3 (ii) In the event of a new trial granted under this subsection,
4 evidence considered by the court in granting the remittitur shall be admissible if
5 offered at the new trial and the jury shall be instructed to consider such evidence in
6 reaching its verdict as to damages.

7 (iii) Upon a determination of those damages at the new trial, no
8 further objection to damages may be made exclusive of any party's right of appeal.

9 [(4)] (5) Except as expressly provided by federal law, no person may
10 recover from the plaintiff or assert a claim of subrogation against a defendant for any
11 sum included in a remittitur or awarded in a new trial on damages granted under this
12 subsection.

13 [(5)] (6) Nothing in this subsection shall be construed to otherwise limit
14 the common law grounds for remittitur.

15 (H) (1) THIS SUBSECTION APPLIES TO A CAUSE OF ACTION ARISING ON OR
16 AFTER JUNE 1, 2005.

17 (2) IN A TRIAL:

18 (I) A DEFENDANT MAY INTRODUCE EVIDENCE THAT THE
19 PLAINTIFF HAS BEEN OR WILL BE PAID, REIMBURSED, OR INDEMNIFIED BY A
20 GOVERNMENT OR THROUGH A GOVERNMENTAL PROGRAM, BY INSURANCE, OR
21 UNDER CONTRACT FOR ALL OR PART OF THE DAMAGES ASSESSED; AND

22 (II) IF THE DEFENDANT INTRODUCES EVIDENCE UNDER ITEM (I)
23 OF THIS PARAGRAPH, THE PLAINTIFF MAY INTRODUCE EVIDENCE:

24 1. OF THE COST TO OBTAIN THE PAYMENT,
25 REIMBURSEMENT, OR INDEMNITY; OR

26 2. THAT A PERSON OR A GOVERNMENTAL ENTITY HAS A
27 RIGHT OF SUBROGATION FOR RECOVERY OF ANY COSTS PAID TO THE PLAINTIFF,
28 AND THE AMOUNT OF THE SUBROGATED INTEREST.

29 (3) THE TRIER OF FACT SHALL CONSIDER THE EVIDENCE INTRODUCED
30 UNDER PARAGRAPH (2) OF THIS SUBSECTION WHEN DECIDING THE ISSUE OF
31 DAMAGES.

32 (4) (I) IF EVIDENCE IS INTRODUCED UNDER PARAGRAPH (2) OF THIS
33 SUBSECTION, EITHER PARTY MAY MOVE THAT THE VERDICT BE MODIFIED BASED ON
34 THE EVIDENCE.

35 (II) THE COURT SHALL HOLD A HEARING ON THE MOTION.

1 (III) SUBJECT TO THIS SUBSECTION, AFTER CONSIDERING THE
2 EVIDENCE IN SUPPORT AND OPPOSITION TO THE REQUEST, THE COURT SHALL
3 MODIFY THE AWARD IF SATISFIED THAT MODIFICATION IS SUPPORTED BY THE
4 EVIDENCE.

5 (5) A DEFENDANT MAY NOT INTRODUCE EVIDENCE CONCERNING ANY
6 FUTURE EXPENSES, COSTS, AND LOSSES AND A VERDICT MAY NOT BE MODIFIED AS
7 TO THESE DAMAGES UNLESS:

8 (I) THE COURT IS ASSURED THAT THE DEFENDANT OR THE
9 DEFENDANT'S INSURER CAN PROVIDE ADEQUATE SECURITY AND, AFTER A VERDICT,
10 ORDERS THE DEFENDANT OR THE DEFENDANT'S INSURER TO PROVIDE ADEQUATE
11 SECURITY TO ENSURE THE PAYMENT OF ALL FUTURE DAMAGES UP TO THE AMOUNT
12 BY WHICH THE AWARD HAS BEEN MODIFIED IN THE EVENT THAT THE OTHER
13 SOURCE OF COMPENSATION IS TERMINATED; OR

14 (II) THE DEFENDANT'S INSURER IS AUTHORIZED TO DO BUSINESS
15 IN THIS STATE AND MAINTAINS RESERVES IN COMPLIANCE WITH RULES OF THE
16 INSURANCE COMMISSIONER TO ENSURE THE PAYMENT OF ALL FUTURE DAMAGES
17 UP TO THE AMOUNT BY WHICH THE AWARD HAS BEEN MODIFIED IN THE EVENT
18 THAT THE OTHER SOURCE OF COMPENSATION IS TERMINATED.

19 (6) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (4) OF THIS
20 SUBSECTION OR AS EXPRESSLY PROVIDED BY FEDERAL LAW, A PERSON MAY NOT
21 RECOVER FROM THE PLAINTIFF OR ASSERT A CLAIM OF SUBROGATION AGAINST A
22 DEFENDANT FOR ANY SUM INCLUDED IN THE MODIFICATION OF A VERDICT.

23 [(g)] (I) If the verdict of the trier of fact is not more favorable to the party that
24 rejected the arbitration panel's award, than was the award, the costs of the judicial
25 proceedings shall be assessed against the rejecting party. Otherwise, the court may
26 determine the assessment of such costs. If the court vacates an assessment of
27 arbitration costs, it shall reassess those costs as justice requires.

28 [(h)] (J) Venue shall be determined in accordance with the provisions of §
29 6-201 of this article.

30 [(i)] (K) The clerk of the court shall file a copy of the verdict or any other final
31 disposition with the Director.

32 3-2A-08.

33 (a) (1) Evidence of advanced payments made [pursuant to] UNDER §
34 19-104(b) of the Insurance Article is not admissible in any arbitration or judicial
35 proceeding for damages due to medical injury until there is an award, in the case of
36 arbitration proceedings, or a verdict, in the case of judicial proceedings, in favor of the
37 claimant OR PLAINTIFF and against the person who made the advanced payments.

38 (2) Upon the finding of such an award or verdict, the arbitration panel,
39 or the trier of fact, shall make a finding of total damages, and shall then deduct

1 whatever amounts it finds were paid by or on behalf of the defendants [pursuant to]
2 UNDER § 19-104(b) of the Insurance Article.

3 (3) The net amount, after this deduction, shall be entered as its award or
4 verdict.

5 (b) (1) THE PROVISIONS OF THIS SUBSECTION DO NOT APPLY TO A VERDICT
6 FOR DAMAGES UNDER THIS SUBTITLE IN WHICH THE CAUSE OF ACTION ARISES ON
7 OR AFTER JUNE 1, 2005.

8 (2) [If] FOR AN AWARD OR VERDICT FOR DAMAGES UNDER THIS
9 SUBTITLE IN WHICH THE CAUSE OF ACTION AROSE BEFORE JUNE 1, 2005, IF the
10 award or verdict exceeds the amount of advanced payments and the arbitration panel
11 or the court finds that the advanced payments were reasonable, the panel or the court
12 may [(1) order]:

13 (I) ORDER that the amount by which the award or verdict exceeds
14 the amount of advanced payments be paid over a period of time consistent with the
15 needs of the claimant OR PLAINTIFF, rather than in a lump sum[, and (2) authorize];
16 AND

17 (II) AUTHORIZE, as part of its order, the creation of a trust or other
18 mechanism to assure the periodic payments.

19 (3) The panel or court shall provide to the claimant the option to choose
20 either a lump sum or payments paid over a period of time.

21 (c) (1) If the advanced payment exceeds the liability of the person making it,
22 the arbitration panel or the court on appeal may order such adjustments as justice
23 may require under the award or verdict, including, where appropriate, contribution
24 by other parties found to be liable.

25 (2) In no event shall an advance payment in excess of the liability of the
26 person making it be repayable by the person receiving it.

27 3-2A-09.

28 (a) This section applies to an award under § 3-2A-05 of this subtitle or a
29 verdict under § 3-2A-06 of this subtitle for a cause of action arising on or after
30 January 1, 2005, AND BEFORE JUNE 1, 2005.

31 3-2A-09A.

32 (A) THIS SECTION APPLIES TO A CLAIM OR CAUSE OF ACTION FILED ON OR
33 AFTER JUNE 1, 2005.

34 (B) UNLESS A COURT FINDS GOOD CAUSE NOT TO APPOINT A NEUTRAL
35 EXPERT WITNESS, THE COURT SHALL EMPLOY A NEUTRAL EXPERT WITNESS TO
36 TESTIFY ON THE ISSUE OF A PLAINTIFF'S ECONOMIC DAMAGES AND PERIODIC
37 PAYMENTS UNDER THIS SUBTITLE.

1 (C) UNLESS OTHERWISE AGREED BY THE PARTIES, THE COSTS OF A NEUTRAL
2 EXPERT WITNESS SHALL BE DIVIDED EQUALLY AMONG THE PARTIES.

3 (D) NOTHING CONTAINED IN THIS SECTION LIMITS THE AUTHORITY OF A
4 COURT CONCERNING A COURT'S WITNESS.

5 3-2A-09B.

6 (A) THIS SECTION APPLIES TO AN AWARD UNDER § 3-2A-05 OF THIS SUBTITLE
7 OR A VERDICT UNDER § 3-2A-06 OF THIS SUBTITLE FOR A CAUSE OF ACTION ARISING
8 ON OR AFTER JANUARY 1, 2005.

9 (B) (1) AN AWARD OR VERDICT UNDER THIS SUBTITLE FOR NONECONOMIC
10 DAMAGES MAY NOT EXCEED \$500,000.

11 (2) THE LIMITATION UNDER PARAGRAPH (1) OF THIS SUBSECTION
12 SHALL APPLY IN THE AGGREGATE TO ALL CLAIMS FOR PERSONAL INJURY AND
13 WRONGFUL DEATH ARISING FROM THE SAME MEDICAL INJURY, REGARDLESS OF
14 THE NUMBER OF CLAIMS, CLAIMANTS, PLAINTIFFS, OR DEFENDANTS.

15 (C) (1) IN A JURY TRIAL, THE JURY MAY NOT BE INFORMED OF THE
16 LIMITATION UNDER SUBSECTION (B) OF THIS SECTION.

17 (2) IF THE JURY AWARDS AN AMOUNT FOR NONECONOMIC DAMAGES
18 THAT EXCEEDS THE LIMITATION ESTABLISHED UNDER SUBSECTION (B) OF THIS
19 SECTION, THE COURT SHALL:

20 (I) REDUCE THE AMOUNT TO CONFORM TO THE LIMITATION; AND

21 (II) IF THE AWARD INCLUDES AMOUNTS FOR BOTH PAST AND
22 FUTURE NONECONOMIC DAMAGES, REDUCE EACH AMOUNT PROPORTIONATELY TO
23 THE TOTAL AWARD SO THAT THE TOTAL AWARD CONFORMS TO THE LIMITATION
24 UNDER SUBSECTION (B)(1) OF THIS SECTION.

25 (3) IN A WRONGFUL DEATH ACTION IN WHICH THERE ARE TWO OR
26 MORE CLAIMANTS OR BENEFICIARIES, IF THE JURY AWARDS AN AMOUNT FOR
27 NONECONOMIC DAMAGES THAT EXCEEDS THE LIMITATION UNDER SUBSECTION (B)
28 OF THIS SECTION OR A REDUCTION UNDER PARAGRAPH (4) OF THIS SUBSECTION,
29 THE COURT SHALL:

30 (I) IF THE AMOUNT OF NONECONOMIC DAMAGES FOR THE
31 PRIMARY CLAIMANTS, AS DESCRIBED UNDER § 3-904(D) OF THIS TITLE, EQUALS OR
32 EXCEEDS THE LIMITATION UNDER SUBSECTION (B) OF THIS SECTION OR A
33 REDUCTION UNDER PARAGRAPH (4) OF THIS SUBSECTION:

34 1. REDUCE EACH INDIVIDUAL AWARD OF A PRIMARY
35 CLAIMANT PROPORTIONATELY TO THE TOTAL AWARD OF ALL PRIMARY CLAIMANTS
36 SO THAT THE TOTAL AWARD TO ALL CLAIMANTS OR BENEFICIARIES CONFORMS TO
37 THE LIMITATION OR REDUCTION; AND

1 (III) AN AWARD OR VERDICT FOR FUTURE MEDICAL EXPENSES FOR
2 NURSING FACILITY SERVICES SHALL BE BASED SOLELY ON THE STATEWIDE
3 AVERAGE PAYMENT RATE FOR THE MEDICAL ASSISTANCE PROGRAM DETERMINED
4 BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE IN EFFECT ON THE DATE
5 OF THE AWARD OR VERDICT, ADJUSTED FOR INFLATION AS PROVIDED IN
6 SUBPARAGRAPH (V) OF THIS PARAGRAPH.

7 (IV) AN AWARD OR VERDICT FOR FUTURE ECONOMIC DAMAGES FOR
8 WHICH THERE IS NO MEDICARE REIMBURSEMENT RATE, HOSPITAL FACILITY RATE,
9 OR STATEWIDE AVERAGE PAYMENT SHALL BE BASED ON ACTUAL COST ON THE DATE
10 OF THE AWARD OR VERDICT, ADJUSTED FOR INFLATION AS PROVIDED IN
11 SUBPARAGRAPH (V) OF THIS PARAGRAPH.

12 (V) 1. FUTURE MEDICAL ECONOMIC DAMAGES SHALL BE
13 ADJUSTED FOR INFLATION FOR THE EXPENDITURE CATEGORY OF THE CONSUMER
14 PRICE INDEX PUBLISHED BY THE BUREAU OF LABOR STATISTICS TO WHICH THE
15 EXPENSE APPLIES.

16 2. THE ADJUSTMENT FOR INFLATION UNDER
17 SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH SHALL BE BASED ON THE AVERAGE
18 RATE OF INFLATION FOR THE 5 YEARS IMMEDIATELY PRECEDING THE AWARD OR
19 VERDICT.

20 3-2A-10.

21 (A) (1) THIS SECTION APPLIES TO AN AWARD OR A VERDICT UNDER THIS
22 SUBTITLE FOR A CAUSE OF ACTION ARISING ON OR AFTER JUNE 1, 2005.

23 (2) (I) THIS SECTION DOES NOT APPLY IF THE CLAIMANT OR
24 PLAINTIFF AND THE DEFENDANT AGREE TO AN ALTERNATIVE METHOD OF
25 PAYMENT.

26 (II) IF THE CLAIMANT OR PLAINTIFF AND DEFENDANT NOTIFY THE
27 ARBITRATION PANEL OR COURT WITHIN 30 DAYS OF THE ENTRY OF THE AWARD OR
28 VERDICT THAT THEY HAVE AGREED TO AN ALTERNATIVE METHOD OF PAYMENT,
29 THE ARBITRATION PANEL OR COURT SHALL ENTER THE TERMS OF THE AGREEMENT
30 ON THE RECORD AS PART OF THE AWARD OR JUDGMENT.

31 (B) (1) THIS SUBSECTION DOES NOT APPLY TO A SURVIVAL ACTION OR
32 WRONGFUL DEATH ACTION.

33 (2) IN A CLAIM OR ACTION UNDER THIS SUBTITLE, IF FUTURE
34 ECONOMIC DAMAGES AND FUTURE NONECONOMIC DAMAGES LIMITED IN
35 ACCORDANCE WITH THIS SUBTITLE IN THE AGGREGATE ARE \$100,000 OR LESS, THE
36 ARBITRATION PANEL OR THE COURT SHALL:

37 (I) ENTER THIS AMOUNT AS THE AWARD OR JUDGMENT FOR
38 FUTURE ECONOMIC DAMAGES AND FUTURE NONECONOMIC DAMAGES; AND

1 (II) ORDER THE DEFENDANT TO PAY THIS AMOUNT AS A LUMP SUM
2 WITH PAST ECONOMIC DAMAGES AND PAST NONECONOMIC DAMAGES.

3 (3) (I) IN A CLAIM OR ACTION UNDER THIS SUBTITLE, IF FUTURE
4 ECONOMIC DAMAGES AND FUTURE NONECONOMIC DAMAGES LIMITED IN
5 ACCORDANCE WITH THIS SUBTITLE IN THE AGGREGATE ARE MORE THAN \$100,000,
6 THE ARBITRATION PANEL OR THE COURT SHALL ORDER THE PAYMENT OF FUTURE
7 ECONOMIC DAMAGES AND FUTURE NONECONOMIC DAMAGES IN PERIODIC
8 PAYMENTS.

9 (II) FOR GOOD CAUSE SHOWN, IF THE ARBITRATION PANEL OR
10 COURT FINDS THAT THE CLAIMANT OR PLAINTIFF WILL INCUR IMMEDIATE
11 ONE-TIME EXPENSES, THE ARBITRATION PANEL OR THE COURT:

12 1. MAY ORDER THE DEFENDANT TO PAY THE AMOUNT OF OF
13 IMMEDIATE ONE-TIME EXPENSES TO THE CLAIMANT OR PLAINTIFF AS A LUMP SUM;
14 AND

15 2. UNLESS THE REMAINING AMOUNT OF THE FUTURE
16 ECONOMIC DAMAGES AND FUTURE NONECONOMIC DAMAGES IS LESS THAN \$100,000,
17 SHALL ORDER THE REMAINING AMOUNT TO BE PAID PERIODICALLY TO THE
18 CLAIMANT OR PLAINTIFF AFTER PAYMENT OF THE CLAIMANT OR PLAINTIFF'S
19 ATTORNEY'S FEES.

20 (C) FOR A SURVIVAL ACTION OR WRONGFUL DEATH ACTION:

21 (1) ALL NONECONOMIC DAMAGES SHALL BE PAID AS A LUMP SUM WITH
22 PAST ECONOMIC DAMAGES, PAST PECUNIARY LOSS, AND OTHER PAST ECONOMIC
23 DAMAGES; AND

24 (2) IF FUTURE PECUNIARY LOSS AND OTHER FUTURE ECONOMIC
25 DAMAGES ARE IN EXCESS OF \$100,000, THE ARBITRATION PANEL OR COURT SHALL
26 ORDER THE FUTURE PECUNIARY LOSS AND OTHER FUTURE ECONOMIC DAMAGES TO
27 BE PAID AS PERIODIC PAYMENTS UNDER THIS SECTION.

28 (D) FOR ANY PART OF AN AWARD OR JUDGMENT SUBJECT TO PERIODIC
29 PAYMENTS UNDER THIS SECTION, THE DEFENDANT SHALL PAY:

30 (1) THE CLAIMANT'S OR PLAINTIFF'S ATTORNEY'S FEES OWED BY THE
31 CLAIMANT OR PLAINTIFF FOR THE AMOUNT SUBJECT TO PERIODIC PAYMENTS; AND

32 (2) THE AMOUNT REMAINING AS PERIODIC PAYMENTS.

33 (E) (1) FOR A CLAIM SUBJECT TO PERIODIC PAYMENTS UNDER THIS
34 SECTION, THE FINDER OF FACT SHALL ALSO DETERMINE:

35 (I) IN A CLAIM FOR PERSONAL INJURY OTHER THAN A SURVIVAL
36 ACTION:

37 1. THE LIFE EXPECTANCY OF THE CLAIMANT OR PLAINTIFF;

1 (2) SUBJECT TO PARAGRAPHS (3), (4), AND (5) OF THIS SUBSECTION, ANY
2 ANNUITY OR ANNUITIES SHALL ENSURE THAT THE CLAIMANT OR PLAINTIFF
3 RECEIVES FOR THE LENGTH OF TIME DETERMINED UNDER SUBSECTION (E) OF THIS
4 SECTION THE AMOUNTS DETERMINED UNDER SUBSECTION (E)(I)6 AND 7 AND (II)2 OF
5 THIS SECTION, LESS THE PERCENTAGE OF ATTORNEY'S FEES PAID UNDER
6 SUBSECTION (D) OF THIS SECTION.

7 (3) (I) AN ANNUITY TO FUND FUTURE LOSS OF EARNINGS SHALL
8 HAVE A GUARANTEED TERM EQUAL TO THE LESSER OF THE NUMBER OF YEARS FOR
9 WHICH THE CLAIMANT OR PLAINTIFF WILL SUFFER A LOSS OF EARNINGS OR THE
10 WORKING LIFE OF THE CLAIMANT OR PLAINTIFF, DETERMINED UNDER SUBSECTION
11 (E) OF THIS SECTION.

12 (II) IF THE CLAIMANT OR PLAINTIFF DIES BEFORE THE END OF THE
13 GUARANTEED TERM OF THE ANNUITY, THE UNPAID BALANCE OF AN ANNUITY SHALL
14 BE PAID AS A LUMP SUM TO THE ESTATE OF THE CLAIMANT OR PLAINTIFF.

15 (4) AN ANNUITY TO FUND FUTURE MEDICAL EXPENSES, OTHER FUTURE
16 ECONOMIC DAMAGES, OR NONECONOMIC DAMAGES SHALL TERMINATE ONLY ON
17 THE DEATH OF THE CLAIMANT OR PLAINTIFF.

18 (5) AN ANNUITY TO FUND PECUNIARY BENEFIT IN A WRONGFUL DEATH
19 CLAIM OR ACTION SHALL TERMINATE AT THE EARLIER OF THE PERIOD FOR WHICH
20 THE CLAIMANT OR PLAINTIFF MIGHT REASONABLY HAVE EXPECTED A PECUNIARY
21 BENEFIT FROM THE DECEDENT HAD THE WRONGFUL DEATH NOT OCCURRED AS
22 DETERMINED UNDER SUBSECTION (E) OF THIS SECTION OR THE DEATH OF THE
23 CLAIMANT OR PLAINTIFF.

24 (6) IF AN ARBITRATION PANEL OR COURT FINDS THAT THE PURCHASE
25 OF AN ANNUITY OR ANNUITIES PROPOSED UNDER THIS SUBSECTION WILL FULLY
26 FUND THE AWARD OR JUDGMENT AND IS FINANCIALLY SECURE, EXCEPT FOR GOOD
27 CAUSE SHOWN, THE ARBITRATION PANEL OR COURT SHALL ORDER THE DEFENDANT
28 TO PURCHASE THE ANNUITY OR ANNUITIES.

29 (7) IF AN ARBITRATION PANEL OR COURT APPROVES A PROPOSAL TO
30 PAY PERIODIC PAYMENTS BY MEANS OF AN ANNUITY OR ANNUITIES UNDER THIS
31 SECTION, SATISFACTORY EVIDENCE OF THE PURCHASE OF AN ANNUITY OR
32 ANNUITIES SHALL FULLY SATISFY THE PORTION OF THE AWARD OR JUDGMENT FOR
33 FUTURE DAMAGES SUBJECT TO PERIODIC PAYMENTS UNDER THIS SECTION.

34 (H) (1) THIS SUBSECTION DOES NOT APPLY IF THE ARBITRATION PANEL OR
35 COURT ORDERS PAYMENTS BY MEANS OF AN ANNUITY OR ANNUITIES UNDER
36 SUBSECTION (G) OF THIS SECTION.

37 (2) (I) PERIODIC PAYMENTS TO FUND FUTURE LOSS OF EARNINGS
38 SHALL HAVE A GUARANTEED TERM EQUAL TO THE LESSER OF THE NUMBER OF
39 YEARS FOR WHICH THE CLAIMANT OR PLAINTIFF WILL SUFFER A LOSS OF EARNINGS
40 OR THE WORKING LIFE OF THE CLAIMANT OR PLAINTIFF, DETERMINED UNDER
41 SUBSECTION (E) OF THIS SECTION.

1 (II) IF THE CLAIMANT OR PLAINTIFF DIES BEFORE THE END OF THE
2 GUARANTEED TERM OF THE PERIODIC PAYMENTS FOR FUTURE LOSS OF EARNINGS,
3 THE UNPAID BALANCE OF THE AWARD OR JUDGMENT SHALL BE PAID AS A LUMP
4 SUM TO THE ESTATE OF THE CLAIMANT OR PLAINTIFF.

5 (3) PERIODIC PAYMENTS TO FUND FUTURE MEDICAL EXPENSES, OTHER
6 FUTURE ECONOMIC DAMAGES, OR NONECONOMIC DAMAGES MAY NOT EXCEED THE
7 LIFE EXPECTANCY OF THE CLAIMANT OR PLAINTIFF AS DETERMINED UNDER
8 SUBSECTION (E) OF THIS SECTION AND SHALL TERMINATE AT THE DEATH OF THE
9 CLAIMANT OR PLAINTIFF.

10 (4) IN A WRONGFUL DEATH CASE, PERIODIC PAYMENTS FOR FUTURE
11 PECUNIARY LOSS SHALL TERMINATE AT THE EARLIER OF THE PERIOD FOR WHICH
12 THE CLAIMANT OR PLAINTIFF MIGHT REASONABLY HAVE EXPECTED A PECUNIARY
13 BENEFIT FROM THE DECEDENT HAD THE WRONGFUL DEATH NOT OCCURRED AS
14 DETERMINED UNDER SUBSECTION (E) OF THIS SECTION OR THE DEATH OF THE
15 CLAIMANT OR PLAINTIFF.

16 (5) (I) UNLESS THE DEFENDANT'S INSURER IS AUTHORIZED TO DO
17 BUSINESS IN THIS STATE AND MAINTAINS RESERVES IN COMPLIANCE WITH RULES
18 OF THE INSURANCE COMMISSIONER TO ASSURE THE PAYMENT OF ALL FUTURE
19 DAMAGES, THE COURT SHALL REQUIRE THE DEFENDANT TO POST ADEQUATE
20 SECURITY TO ENSURE THE PERIODIC PAYMENTS REQUIRED UNDER THIS SECTION.

21 (II) IF THE ARBITRATION PANEL OR COURT IS NOT SATISFIED WITH
22 THE SECURITY POSTED BY THE DEFENDANT, THE ARBITRATION PANEL OR COURT,
23 AFTER GIVING THE DEFENDANT AN OPPORTUNITY TO POST ADDITIONAL SECURITY,
24 SHALL ORDER THE DEFENDANT TO PAY THE CLAIMANT OR PLAINTIFF IN A LUMP
25 SUM.

26 (I) (1) PERIODIC PAYMENTS FOR FUTURE LOSS OF EARNINGS MAY NOT
27 COMMENCE UNTIL THE COMMENCEMENT DATE OF THE WORKING LIFE OF THE
28 CLAIMANT OR PLAINTIFF.

29 (2) THE DEFENDANT'S INSURER SHALL BE OBLIGATED TO MAKE
30 PERIODIC PAYMENTS ONLY TO THE EXTENT OF THE COVERAGE THE INSURER IS
31 OBLIGATED TO PROVIDE UNDER THE INSURANCE POLICY ISSUED TO THE
32 DEFENDANT.

33 (J) THE PROVISIONS OF TITLE 5, SUBTITLE 11 OF THIS ARTICLE APPLY TO A
34 TRANSFER OF PAYMENT RIGHTS UNDER THIS SECTION.

35 [3-2A-10.] 3-2A-11.

36 Except as otherwise provided in §§ 3-2A-05, 3-2A-06, 3-2A-08A [and], 3-2A-09,
37 3-2A-09B, AND 3-2A-10 of this subtitle, the provisions of this subtitle shall be deemed
38 procedural in nature and may not be construed to create, enlarge, or diminish any
39 cause of action not heretofore existing, except the defense of failure to comply with the
40 procedures required under this subtitle.

1 8-306.

2 In a civil action in which a jury trial is permitted, the jury shall consist of AT
3 LEAST 6 jurors.

4 9-124.

5 (A) IN A CIVIL ACTION, IF A COURT DETERMINES THAT SCIENTIFIC,
6 TECHNICAL, OR OTHER SPECIALIZED KNOWLEDGE WILL ASSIST THE TRIER OF FACT
7 TO UNDERSTAND THE EVIDENCE OR TO DETERMINE A FACT IN ISSUE, A WITNESS
8 DETERMINED BY THE COURT TO BE QUALIFIED AS AN EXPERT BY KNOWLEDGE,
9 SKILL, EXPERIENCE, TRAINING, OR EDUCATION MAY TESTIFY CONCERNING THE
10 EVIDENCE OR FACT IN ISSUE IN THE FORM OF AN OPINION OR OTHERWISE ONLY IF
11 THE FOLLOWING CRITERIA ARE MET:

12 (1) THE TESTIMONY IS BASED ON SUFFICIENT FACTS OR DATA;

13 (2) THE TESTIMONY IS THE PRODUCT OF RELIABLE PRINCIPLES AND
14 METHODS; AND

15 (3) THE WITNESS HAS APPLIED THE PRINCIPLES AND METHODS
16 RELIABLY TO THE FACTS OF THE CASE.

17 (B) (1) IF A COURT CONSIDERS IT NECESSARY OR ON MOTION BY A PARTY,
18 THE COURT MAY HEAR EVIDENCE REGARDING THE CRITERIA IN SUBSECTION (A) OF
19 THIS SECTION, INCLUDING HEARING TESTIMONY FROM THE PROPOSED EXPERT
20 WITNESS.

21 (2) IF THE COURT DECIDES TO HEAR EVIDENCE REGARDING THE
22 CRITERIA IN SUBSECTION (A) OF THIS SECTION, THE COURT SHALL HEAR THE
23 EVIDENCE OUT OF THE PRESENCE OF A JURY.

24 11-107.

25 (a) Except as provided in § 11-106 of this article, the legal rate of interest on
26 a judgment shall be at the rate of [10 percent per annum on the amount of judgment]
27 THE WEEKLY AVERAGE 1-YEAR CONSTANT MATURITY TREASURY YIELD, AS
28 PUBLISHED BY THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, FOR
29 THE CALENDAR WEEK PRECEDING THE DATE OF THE JUDGMENT.

30 11-108.

31 (c) An award by the health claims arbitration panel in accordance with §
32 3-2A-05 of this article for damages in which the cause of action arose before January
33 1, 2005, shall be considered an award for purposes of this section.

34 (e) The provisions of this section do not apply to AN ARBITRATION AWARD OR
35 a verdict under Title 3, Subtitle 2A of this article for damages in which the cause of
36 action arises on or after January 1, 2005.

1 11-109.

2 (c) (1) The court [or the health claims arbitration panel] may order that all
3 or part of the future economic damages portion of the award be paid in the form of
4 annuities or other appropriate financial instruments, or that it be paid in periodic or
5 other payments consistent with the needs of the plaintiff, funded in full by the
6 defendant or the defendant's insurer and equal when paid to the amount of the future
7 economic damages award.

8 (2) In the event that the court [or panel] shall order that the award for
9 future economic damages be paid in a form other than a lump sum, the court [or
10 panel] shall order that the defendant or the defendant's insurer provide adequate
11 security for the payment of all future economic damages.

12 (3) The court [or panel] may appoint a conservator under this
13 subsection for the plaintiff, upon such terms as the court [or panel] may impose, who
14 shall have the full and final authority to resolve any dispute between the plaintiff and
15 the defendant or the defendant's insurer regarding the need or cost of expenses for the
16 plaintiff's medical, surgical, custodial, or other care or treatment.

17 [(d)] (4) If the plaintiff [under this section] dies before the final periodic
18 payment of an award is made, the unpaid balance of the award for future loss of
19 earnings shall revert to the estate of the plaintiff and the unpaid balance of the award
20 for future medical expenses shall revert to the defendant or to the defendant's insurer
21 if the insurer provided the funds for the future damages award.

22 (D) IF A HEALTH CLAIMS ARBITRATION PANEL AWARDS FUTURE ECONOMIC
23 DAMAGES IN ACCORDANCE WITH § 3-2A-05 OF THIS ARTICLE FOR DAMAGES IN
24 WHICH THE CAUSE OF ACTION ARISES BEFORE JUNE 1, 2005, THE ARBITRATION
25 PANEL MAY ORDER THAT FUTURE ECONOMIC DAMAGES BE PAID IN ACCORDANCE
26 WITH THE PROVISIONS OF SUBSECTION (C) OF THIS SECTION.

27 (E) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO AN ARBITRATION
28 AWARD OR VERDICT UNDER TITLE 3, SUBTITLE 2A OF THIS ARTICLE FOR DAMAGES IN
29 WHICH THE CAUSE OF ACTION ARISES ON OR AFTER JUNE 1, 2005.

30 **Article - Health Occupations**

31 14-101.

32 (l) (1) "Practice medicine" means to engage, with or without compensation[,
33 in medical]:

- 34 (i) IN MEDICAL:
- 35 1. Diagnosis;
- 36 [(ii)] 2. Healing;
- 37 [(iii)] 3. Treatment; or

1 [(iv)] 4. Surgery; OR

2 (II) IN TESTIFYING AS OR OFFERING AN OPINION AS A MEDICAL
3 EXPERT WITNESS REGARDING THE CONDUCT DESCRIBED IN ITEM (I) OF THIS
4 PARAGRAPH IN THE COURSE OF A LEGAL PROCEEDING.

5 14-302.

6 Subject to the rules, regulations, and orders of the Board, the following
7 individuals may practice medicine without a license:

8 (4) A physician who resides in and is authorized to practice medicine by
9 any state adjoining this State and whose practice extends into this State, if:

10 (ii) The same privileges are extended to licensed physicians of this
11 State by the adjoining state; [and]

12 (5) An individual while under the supervision of a licensed physician
13 who has specialty training in psychiatry, and whose specialty training in psychiatry
14 has been approved by the Board, if the individual submits an application to the Board
15 on or before October 1, 1993, and either:

16 (ii) 2. Has 4,000 hours of supervised clinical experience that is
17 approved by the Board; AND

18 (6) A PHYSICIAN LICENSED BY AND RESIDING IN ANOTHER
19 JURISDICTION, WHILE TESTIFYING IN A CIVIL ACTION OR ATTESTING TO
20 COMPLIANCE WITH OR DEPARTURES FROM STANDARDS OF CARE FOR PURPOSES OF
21 A CERTIFICATE OF QUALIFIED EXPERT UNDER TITLE 3, SUBTITLE 2A OF THE COURTS
22 ARTICLE.

23 14-401.

24 (i) (1) Those individuals not licensed under this title but covered under §
25 14-413(a)(1)(ii)3 and 4 of this subtitle are subject to the hearing provisions of §
26 14-405 of this subtitle.

27 (2) THOSE INDIVIDUALS WHO PRACTICE MEDICINE BUT ARE NOT
28 LICENSED UNDER § 14-302(6) OF THIS TITLE ARE SUBJECT TO THE PROVISIONS OF
29 THIS SUBTITLE.

30 14-404.

31 (a) Subject to the hearing provisions of § 14-405 of this subtitle, the Board, on
32 the affirmative vote of a majority of the quorum, may reprimand any licensee, place
33 any licensee on probation, or suspend or revoke a license, OR TAKE SIMILAR
34 DISCIPLINARY ACTIONS AGAINST AN INDIVIDUAL EXEMPT FROM LICENSING UNDER
35 § 14-302(6) OF THIS TITLE if the licensee OR INDIVIDUAL:

- 1 (1) Fraudulently or deceptively obtains or attempts to obtain a license
2 for the applicant or licensee or for another;
- 3 (2) Fraudulently or deceptively uses a license;
- 4 (3) Is guilty of immoral or unprofessional conduct in the practice of
5 medicine;
- 6 (4) Is professionally, physically, or mentally incompetent;
- 7 (5) Solicits or advertises in violation of § 14-503 of this title;
- 8 (6) Abandons a patient;
- 9 (7) Habitually is intoxicated;
- 10 (8) Is addicted to, or habitually abuses, any narcotic or controlled
11 dangerous substance as defined in § 5-101 of the Criminal Law Article;
- 12 (9) Provides professional services:
 - 13 (i) While under the influence of alcohol; or
 - 14 (ii) While using any narcotic or controlled dangerous substance, as
15 defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of
16 therapeutic amounts or without valid medical indication;
- 17 (10) Promotes the sale of drugs, devices, appliances, or goods to a patient
18 so as to exploit the patient for financial gain;
- 19 (11) Willfully makes or files a false report or record in the practice of
20 medicine;
- 21 (12) Willfully fails to file or record any medical report as required under
22 law, willfully impedes or obstructs the filing or recording of the report, or induces
23 another to fail to file or record the report;
- 24 (13) On proper request, and in accordance with the provisions of Title 4,
25 Subtitle 3 of the Health - General Article, fails to provide details of a patient's
26 medical record to the patient, another physician, or hospital;
- 27 (14) Solicits professional patronage through an agent or other person or
28 profits from the acts of a person who is represented as an agent of the physician;
- 29 (15) Pays or agrees to pay any sum to any person for bringing or referring
30 a patient or accepts or agrees to accept any sum from any person for bringing or
31 referring a patient;
- 32 (16) Agrees with a clinical or bioanalytical laboratory to make payments
33 to the laboratory for a test or test series for a patient, unless the licensed physician
34 discloses on the bill to the patient or third-party payor:

- 1 (i) The name of the laboratory;
- 2 (ii) The amount paid to the laboratory for the test or test series; and
- 3 (iii) The amount of procurement or processing charge of the licensed
4 physician, if any, for each specimen taken;
- 5 (17) Makes a willful misrepresentation in treatment;
- 6 (18) Practices medicine with an unauthorized person or aids an
7 unauthorized person in the practice of medicine;
- 8 (19) Grossly overutilizes health care services;
- 9 (20) Offers, undertakes, or agrees to cure or treat disease by a secret
10 method, treatment, or medicine;
- 11 (21) Is disciplined by a licensing or disciplinary authority or convicted or
12 disciplined by a court of any state or country or disciplined by any branch of the
13 United States uniformed services or the Veterans' Administration for an act that
14 would be grounds for disciplinary action under this section;
- 15 (22) Fails to meet appropriate standards as determined by appropriate
16 peer review for the delivery of quality medical and surgical care performed in an
17 outpatient surgical facility, office, hospital, or any other location in this State;
- 18 (23) Willfully submits false statements to collect fees for which services
19 are not provided;
- 20 (24) Was subject to investigation or disciplinary action by a licensing or
21 disciplinary authority or by a court of any state or country for an act that would be
22 grounds for disciplinary action under this section and the licensee:
- 23 (i) Surrendered the license issued by the state or country to the
24 state or country; or
- 25 (ii) Allowed the license issued by the state or country to expire or
26 lapse;
- 27 (25) Knowingly fails to report suspected child abuse in violation of § 5-704
28 of the Family Law Article;
- 29 (26) Fails to educate a patient being treated for breast cancer of
30 alternative methods of treatment as required by § 20-113 of the Health - General
31 Article;
- 32 (27) Sells, prescribes, gives away, or administers drugs for illegal or
33 illegitimate medical purposes;
- 34 (28) Fails to comply with the provisions of § 12-102 of this article;

1 (29) Refuses, withholds from, denies, or discriminates against an
2 individual with regard to the provision of professional services for which the licensee
3 is licensed and qualified to render because the individual is HIV positive;

4 (30) Except as to an association that has remained in continuous
5 existence since July 1, 1963:

6 (i) Associates with a pharmacist as a partner or co-owner of a
7 pharmacy for the purpose of operating a pharmacy;

8 (ii) Employs a pharmacist for the purpose of operating a pharmacy;
9 or

10 (iii) Contracts with a pharmacist for the purpose of operating a
11 pharmacy;

12 (31) Except in an emergency life-threatening situation where it is not
13 feasible or practicable, fails to comply with the Centers for Disease Control's
14 guidelines on universal precautions;

15 (32) Fails to display the notice required under § 14-415 of this title;

16 (33) Fails to cooperate with a lawful investigation conducted by the
17 Board;

18 (34) Is convicted of insurance fraud as defined in § 27-801 of the
19 Insurance Article;

20 (35) Is in breach of a service obligation resulting from the applicant's or
21 licensee's receipt of State or federal funding for the licensee's medical education;

22 (36) Willfully makes a false representation when seeking or making
23 application for licensure or any other application related to the practice of medicine;

24 (37) By corrupt means, threats, or force, intimidates or influences, or
25 attempts to intimidate or influence, for the purpose of causing any person to withhold
26 or change testimony in hearings or proceedings before the Board or those otherwise
27 delegated to the Office of Administrative Hearings;

28 (38) By corrupt means, threats, or force, hinders, prevents, or otherwise
29 delays any person from making information available to the Board in furtherance of
30 any investigation of the Board;

31 (39) Intentionally misrepresents credentials for the purpose of testifying
32 or rendering an expert opinion in hearings or proceedings before the Board or those
33 otherwise delegated to the Office of Administrative Hearings; [or]

34 (40) Fails to keep adequate medical records as determined by appropriate
35 peer review; OR

1 (41) FALSELY TESTIFIES OR ATTESTS TO COMPLIANCE WITH OR
2 DEPARTURE FROM STANDARDS OF CARE WHEN ATTESTING TO A CERTIFICATE OF
3 QUALIFIED EXPERT UNDER TITLE 3, SUBTITLE 2A OF THE COURTS ARTICLE OR
4 TESTIFYING IN A CIVIL ACTION, AS DETERMINED BY APPROPRIATE PEER REVIEW.

5 **Article - Insurance**

6 [24-214.

7 (a) In this section, "medical professional liability insurance" means insurance
8 providing coverage against damages due to medical injury arising out of the
9 performance of professional services rendered or which should have been rendered by
10 a health care provider.

11 (b) Notwithstanding § 10-130(a) of this subtitle, the Society shall:

12 (1) offer policyholders and potential policyholders the ability to purchase
13 and renew coverage directly from the Society; and

14 (2) for a policyholder that purchases or renews coverage directly, provide
15 a premium discount or rebate in an amount equivalent to the commission the Society
16 would have paid an insurance producer to sell the same policy less 1% for
17 administrative expense.

18 (c) Beginning January 1, 2005 until December 31, 2009, an authorized insurer
19 that issues policies of medical professional liability insurance in the State may not
20 pay a commission at a rate that exceeds 5% of the premium.]

21 SECTION 2. AND BE IT FURTHER ENACTED, That §§ 3-2A-05(h),
22 3-2A-06(f)(1), (5), and (6), 3-2A-11, 5-608.1, 8-306, and 11-107(a) of the Courts
23 Article as enacted by this Act shall be construed to apply only prospectively and may
24 not be applied or interpreted to have any effect on or application to any cause of action
25 arising before the effective date of this Act.

26 SECTION 3. AND BE IT FURTHER ENACTED, That §§ 3-2A-04(b)(1)1 and
27 (4), 3-2A-05(b)(4) and (e), and 9-124 of the Courts Article as enacted by this Act shall
28 be construed to apply only prospectively and may not be applied or interpreted to
29 have any effect on or application to any claim or case filed before the effective date of
30 this Act.

31 SECTION 4. AND BE IT FURTHER ENACTED, That if any provision of this
32 Act or the application thereof to any person or circumstance is held invalid for any
33 reason in a court of competent jurisdiction, the invalidity does not affect other
34 provisions or any other application of this Act which can be given effect without the
35 invalid provision or application, and for this purpose the provisions of this Act are
36 declared severable.

37 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take
38 effect June 1, 2005.