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By: **Delegates Bates, Boteler, Impallaria, Jennings, Krebs, McDonough, and Miller**

Introduced and read first time: February 3, 2005

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Medical Injury Compensation - Claimant Recovery**

3 FOR the purpose of providing that a person having a claim against a health care  
4 provider for damages due to a medical injury occurring on or after a certain date  
5 is entitled to a certain amount of the money recovered; providing that an  
6 attorney who violates certain provisions of this Act is subject to disbarment,  
7 suspension, or other disciplinary action; providing for the application of certain  
8 provisions of this Act; defining a certain term; making this Act an emergency  
9 measure; and generally relating to health care malpractice claims and claimant  
10 recovery.

11 BY adding to

12 Article - Courts and Judicial Proceedings

13 Section 3-2A-07.1

14 Annotated Code of Maryland

15 (2002 Replacement Volume and 2004 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Courts and Judicial Proceedings**

19 3-2A-07.1.

20 (A) (1) IN THIS SECTION, "RECOVERED" MEANS THE NET SUM RECOVERED  
21 BY THE CLAIMANT AFTER DEDUCTING ANY DISBURSEMENTS OR COSTS INCURRED IN  
22 CONNECTION WITH PROSECUTION OR SETTLEMENT OF THE CLAIM.

23 (2) FOR PURPOSES OF THIS SUBSECTION, COSTS OF MEDICAL CARE  
24 INCURRED BY THE CLAIMANT AND THE ATTORNEY'S OFFICE-OVERHEAD COSTS OR  
25 CHARGES ARE NOT DEDUCTIBLE DISBURSEMENTS OR COSTS.

1 (B) A PERSON HAVING A CLAIM AGAINST A HEALTH CARE PROVIDER FOR  
2 DAMAGES DUE TO A MEDICAL INJURY OCCURRING ON OR AFTER JANUARY 1, 2005, IS  
3 ENTITLED TO NOT LESS THAN:

4 (1) 70% OF THE FIRST \$250,000 RECOVERED; AND

5 (2) 90% OF ANY AMOUNT RECOVERED IN EXCESS OF \$250,000.

6 (C) THE REQUIREMENTS ESTABLISHED UNDER SUBSECTION (B) OF THIS  
7 SECTION APPLY REGARDLESS OF:

8 (1) WHETHER THE AMOUNT RECOVERED IS BY SETTLEMENT, AWARD,  
9 OR VERDICT;

10 (2) WHETHER THE PERSON FOR WHOM THE AMOUNT IS RECOVERED IS  
11 A RESPONSIBLE ADULT, A MINOR, OR A PERSON WHO IS MENTALLY INCOMPETENT;  
12 OR

13 (3) THE NUMBER OF DEFENDANTS INVOLVED IN THE CLAIM.

14 (D) AN ATTORNEY WHO VIOLATES THIS SECTION IS SUBJECT TO  
15 DISBARMENT, SUSPENSION, OR OTHER DISCIPLINARY ACTION IN ACCORDANCE WITH  
16 TITLE 16, CHAPTER 700 OF THE MARYLAND RULES.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
18 measure, is necessary for the immediate preservation of the public health or safety,  
19 has been passed by a ye and nay vote supported by three-fifths of all the members  
20 elected to each of the two Houses of the General Assembly, and shall take effect from  
21 the date it is enacted.