

---

By: **Delegates Zirkin, Aumann, Boteler, DeBoy, Frank, Jennings, McComas,  
McMillan, Shank, Sophocleus, and Trueschler**

Introduced and read first time: January 17, 2005

Assigned to: Judiciary

---

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Malpractice Claims - Division of Lawyers' Fees - Prohibition**

3 FOR the purpose of prohibiting a lawyer from dividing a certain fee with another  
4 lawyer who is not in the same firm except under certain circumstances; making  
5 a violation of this Act subject to certain disciplinary sanctions; and generally  
6 relating to the division of lawyers' fees.

7 BY adding to  
8 Article - Business Occupations and Professions  
9 Section 10-605.3  
10 Annotated Code of Maryland  
11 (2004 Replacement Volume and 2004 Supplement)

12 BY repealing and reenacting, with amendments,  
13 Article - Business Occupations and Professions  
14 Section 10-606  
15 Annotated Code of Maryland  
16 (2004 Replacement Volume and 2004 Supplement)

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

19 **Article - Business Occupations and Professions**

20 10-605.3.

21 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
22 INDICATED.

23 (2) "HEALTH CARE PROVIDER" HAS THE MEANING STATED IN § 3-2A-01  
24 OF THE COURTS ARTICLE.

25 (3) "MEDICAL INJURY" HAS THE MEANING STATED IN § 3-2A-01 OF THE  
26 COURTS ARTICLE.

1 (B) A LAWYER MAY NOT DIVIDE A FEE FOR REPRESENTING A PERSON HAVING  
2 A CLAIM AGAINST A HEALTH CARE PROVIDER FOR DAMAGES DUE TO A MEDICAL  
3 INJURY OCCURRING ON OR AFTER OCTOBER 1, 2005, WITH ANOTHER LAWYER WHO IS  
4 NOT IN THE SAME FIRM UNLESS:

5 (1) THE DIVISION IS IN PROPORTION TO THE SERVICES PERFORMED BY  
6 EACH LAWYER;

7 (2) THE CLIENT IS ADVISED OF AND DOES NOT OBJECT TO THE  
8 PARTICIPATION OF ALL THE LAWYERS INVOLVED; AND

9 (3) THE TOTAL FEE IS REASONABLE.

10 10-606.

11 (a) (1) A corporation, partnership, or any other association that violates §  
12 10-601 or § 10-602 of this subtitle is subject to a fine not exceeding \$5,000.

13 (2) An officer, director, partner, trustee, agent, or employee who acts to  
14 enable a corporation, partnership, or association to violate § 10-601 or § 10-602 of  
15 this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not  
16 exceeding \$5,000 or imprisonment not exceeding 1 year or both.

17 (3) Except as provided in paragraphs (1) and (2) of this subsection, a  
18 person who violates § 10-601 of this subtitle is guilty of a misdemeanor and on  
19 conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 1  
20 year or both.

21 (b) A person who willfully violates any provision of Subtitle 3, Part I of this  
22 title, except for the requirement that a lawyer deposit trust moneys in an attorney  
23 trust account for charitable purposes under § 10-303 of this title, is guilty of a  
24 misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or  
25 imprisonment not exceeding 5 years or both.

26 (C) A PERSON WHO VIOLATES § 10-605.3 OF THIS SUBTITLE IS SUBJECT TO  
27 DISCIPLINARY SANCTIONS AS THE MARYLAND RULES PROVIDE.

28 [(c)] (D) Except as provided in subsections (a) [and], (b), AND (C) of this  
29 section, a person who violates any provision of this title is guilty of a misdemeanor  
30 and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not  
31 exceeding 1 year or both.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 October 1, 2005.