

Department of Legislative Services  
Maryland General Assembly  
2005 Session

FISCAL AND POLICY NOTE

House Bill 115  
Judiciary

(Delegate Zirkin, *et al.*)

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

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This bill prohibits a lawyer from dividing a fee for representing a person having a claim against a health care provider for damages due to a medical injury occurring on or after October 1, 2005, with another lawyer who is not in the same firm unless: (1) the division is in proportion to the services performed by each lawyer; (2) the client is advised of and does not object to the participation of all the lawyers involved; and (3) the total fee is reasonable. A person who violates the bill is subject to disciplinary sanctions under the Maryland Rules.

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Fiscal Summary

**State Effect:** The bill would not materially affect governmental finances or operations.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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Analysis

**Current Law:** Under the Maryland Rules, a division of fees between lawyers who are not in the same firm may be made only if: (1) the division is proportional to the services performed by each lawyer or, by written agreement with the client, each lawyer assumes joint responsibility for the representation; (2) the client is advised of and does not object to the participation of all lawyers involved; and (3) the total fee is reasonable.

Possible sanctions for professional misconduct under the Maryland Rules include a reprimand with or without conditions, a suspension from the practice of law, and disbarment.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Health and Mental Hygiene, Maryland Insurance Administration, Department of Legislative Services

**Fiscal Note History:** First Reader - March 10, 2005  
mam/jr

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