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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1326

Session of  
2003

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INTRODUCED BY TURZAI, ARMSTRONG, BARRAR, BIRMELIN, CAPPELLI,  
CLYMER, COLEMAN, CREIGHTON, FAIRCHILD, FEESE, GODSHALL,  
HUTCHINSON, JAMES, LEH, LEWIS, MAHER, METCALFE, O'NEILL,  
REED, ROSS, RUBLEY, SAYLOR, SCAVELLO, SCHRODER, S. H. SMITH,  
STEIL, E. Z. TAYLOR, TIGUE, WEBER, WILT, YOUNGBLOOD, BOYD AND  
BARD, MAY 6, 2003

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AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 2, 2003

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A JOINT RESOLUTION

1 Proposing an amendment to the Constitution of the Commonwealth  
2 of Pennsylvania, further providing for compensation laws  
3 allowed to General Assembly relating to medical professional  
4 liability actions.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby resolves as follows:

7 Section 1. Access to quality health care is of the utmost  
8 importance to the safety and welfare of our Commonwealth's more  
9 than 12 million citizens.

10 The health and welfare of our residents is in serious  
11 jeopardy because many physicians faced with excessive medical  
12 malpractice premiums can no longer afford to deliver quality  
13 health care in this Commonwealth.

14 Several factors, including excessive jury awards, have  
15 facilitated the sudden exodus of many of the medical malpractice  
16 insurance providers in this Commonwealth.

1       This diminished market has placed severe restrictions on the  
2 physician's ability to secure, afford and maintain reasonable  
3 liability insurance.

4       In the absence of affordable insurance coverage, many  
5 physicians are in the untenable position of being forced to  
6 reduce services, moving to other states or leaving the medical  
7 profession altogether.

8       The departure of our Commonwealth's physicians, combined with  
9 costly insurance premiums, has resulted in the reduction of  
10 other essential hospital services.

11       The ultimate result of this reduction in services is  
12 restricted access to health care for the citizens of this  
13 Commonwealth.

14       This Commonwealth is clearly in the midst of an escalating  
15 liability emergency.

16       This Commonwealth has long been recognized as a leader in  
17 medical research and medical services, supporting some of the  
18 best medical institutions in the world.

19       It is imperative that the citizens of this Commonwealth  
20 continue to have access to the best physicians, the safest  
21 medical institutions and a fair and just legal system.

22       Access to quality health care must not come at the expense of  
23 those injured by the ~~actions of reckless, willful or wanton~~ <—  
24 WILLFUL OR WANTON ACTIONS OF practitioners. <—

25       The Commonwealth must balance the right of its citizens to  
26 quality health care against the rights of professionals who  
27 cause injury to its citizens.

28       The General Assembly desires to alleviate the medical  
29 emergency that has evolved from unreasonable jury awards,  
30 unaffordable insurance premiums and reduced reimbursements, but

1 is limited in its efforts by rigid restrictions in the  
2 Constitution of Pennsylvania.

3 The safety and welfare of this Commonwealth requires prompt  
4 amendment to the Constitution of Pennsylvania.

5 The following amendment to the Constitution of Pennsylvania  
6 is proposed in accordance with section 1(a) and (b) of Article  
7 XI:

8 That section 18 of Article III be amended to read:

9 § 18. Compensation laws allowed to General Assembly.

10 (a) The General Assembly may enact laws requiring the  
11 payment by employers, or employers and employees jointly, of  
12 reasonable compensation for injuries to employees arising in the  
13 course of their employment, and for occupational diseases of  
14 employees, whether or not such injuries or diseases result in  
15 death, and regardless of fault of employer or employee, and  
16 fixing the basis of ascertainment of such compensation and the  
17 maximum and minimum limits thereof, and providing special or  
18 general remedies for the collection thereof[; but in no other  
19 cases shall]. Except as otherwise provided for in this section,  
20 the General Assembly shall not limit the amount to be recovered  
21 for injuries resulting in death, or for injuries to persons or  
22 property, and in case of death from such injuries, the right of  
23 action shall survive, and the General Assembly shall prescribe  
24 for whose benefit such actions shall be prosecuted. No act shall  
25 prescribe any limitations of time within which suits may be  
26 brought against corporations for injuries to persons or  
27 property, or for other causes different from those fixed by  
28 general laws regulating actions against natural persons, and  
29 such acts now existing are avoided.

30 (b) Subject to the provisions of subsection (c), the General

1 Assembly may enact laws limiting the amount of recovery for  
2 noneconomic and punitive damages in any medical professional  
3 liability action.

4 (c) The provisions of subsection (b) shall not apply to  
5 noneconomic and punitive damages in any medical professional  
6 liability action if the act or omission amounts to willful or  
7 wanton misconduct.

8 Section 2. This proposed amendment shall be submitted by the  
9 Secretary of the Commonwealth to the qualified electors of the  
10 State at the municipal election to be held on November 4, 2003,  
11 after the advertising requirements of section 1(a) of Article XI  
12 of the Constitution of Pennsylvania have been satisfied.