

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 736 Session of  
2005

INTRODUCED BY BOYD, WILT, HERSHEY, RAYMOND, REED, GINGRICH,  
KILLION, LEH, SCAVELLO, BENNINGHOFF, HUTCHINSON, STEIL,  
E. Z. TAYLOR, S. MILLER, CRAHALLA, BUNT, SCHRODER,  
McILHINNEY, YOUNGBLOOD, SAYLOR AND KAUFFMAN, MARCH 1, 2005

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 1, 2005

AN ACT

1 Amending the act of March 20, 2002 (P.L.154, No.13), entitled  
2 "An act reforming the law on medical professional liability;  
3 providing for patient safety and reporting; establishing the  
4 Patient Safety Authority and the Patient Safety Trust Fund;  
5 abrogating regulations; providing for medical professional  
6 liability informed consent, damages, expert qualifications,  
7 limitations of actions and medical records; establishing the  
8 Interbranch Commission on Venue; providing for medical  
9 professional liability insurance; establishing the Medical  
10 Care Availability and Reduction of Error Fund; providing for  
11 medical professional liability claims; establishing the Joint  
12 Underwriting Association; regulating medical professional  
13 liability insurance; providing for medical licensure  
14 regulation; providing for administration; imposing penalties;  
15 and making repeals," further providing for damages.

16 The General Assembly of the Commonwealth of Pennsylvania  
17 hereby enacts as follows:

18 Section 1. Section 505(e) of the act of March 20, 2002  
19 (P.L.154, No.13), known as the Medical Care Availability and  
20 Reduction of Error (Mcare) Act, is repealed.

21 Section 2. The act is amended by adding a section to read:

22 Section 505.1. Allocation of all damages.

23 (a) Medical expenses.--Upon the entry of a verdict including

1 an award of future medical expenses, 100% of the future medical  
2 expenses shall be paid to the prevailing party in the manner  
3 provided for in section 509.

4 (b) Loss of earnings.--Upon the entry of a verdict including  
5 an award of future loss of earnings, 100% of the future loss of  
6 earnings shall be paid to the prevailing party in the manner  
7 provided for in section 510.

8 (c) Noneconomic damages.--Upon the entry of a verdict  
9 including an award of noneconomic damages, the noneconomic  
10 damages portion of the award shall be allocated as follows:

11 (1) 65% shall be paid to the prevailing party.

12 (2) 15% shall be paid to the Medical Care Availability  
13 and Reduction of Error Fund.

14 (d) Punitive damages.--Upon the entry of a verdict including  
15 an award of punitive damages, the punitive damages shall be  
16 allocated as follows:

17 (1) 75% shall be paid to the prevailing party; and

18 (2) 25% shall be paid to the Medical Care Availability  
19 and Reduction of Error Fund.

20 (e) Prevailing party.--Any portion of an award allocated to  
21 the prevailing party pursuant to this section shall be paid to  
22 the prevailing party and shall not be subject to any prior lien,  
23 agreement, contract, judgment or any other prior encumbrance.

24 Section 3. This act shall take effect in 60 days.