

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1907 Session of
2011

INTRODUCED BY GRELL, BAKER, BENNINGHOFF, BOYD, CUTLER, ELLIS,
EVERETT, GINGRICH, GODSHALL, HICKERNELL, KAUFFMAN, PICKETT,
REED, SIMMONS, TALLMAN, CLYMER, VULAKOVICH, STEVENSON,
KILLION, GROVE, MILNE, PERRY, SONNEY, MOUL, MILLER AND
M. K. KELLER, OCTOBER 24, 2011

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
DECEMBER 19, 2011

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 punitive damages.

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

18 Section 1. Section 505(d) 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 amended to read:

21 Section 505. Punitive damages.

22 * * *

(d) Total amount of damages.--The following shall apply:

(1) Except as provided under paragraph (2) and in cases alleging intentional misconduct, punitive damages against an individual physician shall not exceed 200% of the compensatory damages awarded. Punitive damages, when awarded, shall not be less than \$100,000 unless a lower verdict amount is returned by the trier of fact.

(2) The following shall apply:

(i) Except in cases alleging intentional misconduct OR WHEN THE FACILITY ENGAGED IN AN UNLAWFUL PRACTICE, punitive damages against any of the following shall not exceed 200% of the compensatory damages awarded:

(A) A personal care home or an assisted living community, licensed by the Department of Public Welfare under the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

(B) A long-term care nursing facility, ~~a home care agency, a home health care agency or a hospice~~ licensed by the Department of Health under the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

(C) An officer, employee or agent of the entities under clauses (A) and (B), while acting in the course and scope of their employment.

(ii) Punitive damages, when awarded, shall not be less than \$100,000 unless a lower verdict amount is returned by the trier of fact.

* * *

Section 2. This act shall take effect in 60 days.