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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1907 Session of  
2011

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INTRODUCED BY GRELL, BAKER, BENNINGHOFF, BOYD, CUTLER, ELLIS,  
EVERETT, GINGRICH, GODSHALL, HICKERNELL, KAUFFMAN, PICKETT,  
REED, SIMMONS, TALLMAN, CLYMER, VULAKOVICH, STEVENSON,  
KILLION AND GROVE, OCTOBER 24, 2011

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REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 24, 2011

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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 \* \* \*

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

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

7       (2) The following shall apply:

8           (i) Except in cases alleging intentional misconduct,  
9           punitive damages against any of the following shall not  
10          exceed 200% of the compensatory damages awarded:

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

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

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

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

26       \* \* \*

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