

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING AN ATTORNEY'S CONTINGENCY FEE IN A MEDICAL
5 MALPRACTICE CLAIM; AND PROVIDING AN APPLICABILITY DATE."

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8
9 **NEW SECTION. Section 1. Limitation of attorney fee in professional negligence claim against**
10 **health care provider.** (1) An attorney may not contract for or collect a contingency fee for representing a person
11 seeking damages in connection with a claim for injury or damage against a health care provider based upon the
12 health care provider's alleged professional negligence in excess of the following limits:

- 13 (a) 40% of the first \$50,000 recovered;
- 14 (b) 33 1/3% of the next \$50,000 recovered;
- 15 (c) 25% of the next \$500,000 recovered; and
- 16 (d) 15% of that part recovered that exceeds \$600,000.

17 (2) The limitations in subsection (1) apply regardless of whether a recovery is by settlement, arbitration,
18 or judgment or whether the person for whom the recovery is made is a responsible adult, an infant, or a person
19 of unsound mind.

20 (3) If periodic payments are awarded, the court shall place a total value on the payments based upon
21 the projected life expectancy of the plaintiff and include that amount in computing the total award from which the
22 attorney fee is calculated.

23 (4) For purposes of this section, the following definitions apply:

24 (a) "Health care provider" means a person or entity licensed under Title 37, chapter 3, 4, 6, 7, 8, 9, 10,
25 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 34, or 35, and a health care facility as
26 defined in 50-5-101.

27 (b) "Professional negligence" is a negligent act or omission to act by a health care provider in the
28 rendering of professional services that is the proximate cause or a proximate cause of a personal injury or
29 wrongful death. The services must have been within the scope of services for which the health care provider was
30 licensed in this state and may not have been under any restriction imposed by the licensing agency or a licensed

1 hospital.

2 (c) "Recovered" means the net sum recovered after deducting any disbursements or costs incurred in
3 connection with prosecution or settlement of the claim. Costs of medical care incurred by a plaintiff and the
4 attorney's office overhead costs or charges are not deductible disbursements or costs for purposes of this
5 definition.

6
7 NEW SECTION. **Section 2. Applicability.** [This act] applies to causes of action that arise after [the
8 effective date of this act].

9 - END -