

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 528

7 H.P. 384

House of Representatives, February 12, 1985

8 Referred to the Committee on Judiciary. Sent up for concurrence and
9 ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Bonney of Falmouth.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Restrict Contingency Fees Charged
18 by Attorneys in Medical Malpractice
19 Suits.
20

21 Be it enacted by the People of the State of Maine as
22 follows:

23 4 MRSA c. 17, sub-c.IV is enacted to read:

24 SUBCHAPTER IV

25 ATTORNEY'S FEES

26 §911. Contingent fees for attorneys in claims or ac-
27 tions for medical malpractice

28 1. Definition. For the purpose of this section,
29 the term "contingent fee" means any attorney's fee in
30 any claim or action for medical malpractice, whether
31 determined by judgment or settlement which is depen-
32 dent in whole or in part upon the success of the
33 prosecution by the attorney of that claim or action,

1 or which is to consist of a percentage of any recovery
2 or a sum equal to a percentage of any recovery,
3 in that claim or action.

4 2. Limitation on contingent fee. A contingent
5 fee in a medical malpractice action shall not exceed:

6 A. Fifty percent of the first \$1,000 of the sum
7 recovered;

8 B. Forty percent of the next \$2,000 of the sum
9 recovered;

10 C. Thirty percent of the next \$17,000 of the sum
11 recovered; and

12 D. Twenty percent of any amount over \$20,000 of
13 the sum recovered.

14 3. Notice to client. No attorney may enter into
15 such a contingent fee arrangement with his client
16 without first advising the client of his right and
17 affording the client an opportunity to retain the at-
18 torney under an arrangement whereby the attorney
19 would be compensated on the basis of the reasonable
20 value of his services.

21 4. Computation of fee. Any contingent fee under
22 this section shall be computed on the net sum recov-
23 ered by the client after deducting from the amount
24 recovered expenses and disbursements made in connec-
25 tion with the institution and prosecution of the cli-
26 ent's claim or action.

27 5. Costs of appeal. A contingent fee within the
28 permissible limits set out in this section shall in-
29 clude legal services rendered in any appeal or review
30 or in any retrial, but this shall not be deemed to
31 require an attorney to take an appeal.

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STATEMENT OF FACT

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The purpose of this bill is to place a limitation
on contingent fee arrangements in medical malpractice
actions.

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