



2005 ASSEMBLY BILL 1074

February 27, 2006 - Introduced by Representatives VOS, VUKMIR, J. FITZGERALD, GIELOW, LOTHIAN, AINSWORTH, MUSSER, KLEEFISCH, NEWCOMER, PRIDEMORE, JESKEWITZ, NASS, KERKMAN, UNDERHEIM, F. LASEE, LEMAHIEU, BALLWEG, OWENS, KESTELL, HAHN and ALBERS, cosponsored by Senators S. FITZGERALD, A. LASEE, REYNOLDS, KEDZIE, ROESSLER, DARLING and LEIBHAM. Referred to Committee on Insurance.

1 **AN ACT** *to amend* 655.013 (1m) (intro.); and *to create* 655.013 (1p) of the
2 statutes; **relating to:** recovery of attorney fees in medical malpractice cases.

Analysis by the Legislative Reference Bureau

Currently, if an attorney accepts a medical malpractice case on a contingency fee basis, generally the fee is limited to the costs of the prosecution and 33 and one-third percent of the first \$1,000,000 recovered and 20 percent of any amount recovered in excess of \$1,000,000. The court may award fees in excess of these limits in exceptional circumstances. This bill limits attorney fees to the costs of the prosecution and 40 percent of the first \$50,000 recovered, 33 and one-third percent of the next \$50,000 recovered, 25 percent of the next \$500,000 recovered, and 15 percent of any amount recovered in excess of \$600,000. The bill also excludes the attorney's office overhead costs and office support staff costs, payments to consulting attorneys, and charges from the costs of the prosecution.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 655.013 (1m) (intro.) of the statutes is amended to read:
4 655.013 (**1m**) (intro.) Except as provided in sub. (1t), with respect to any act of
5 malpractice for which a contingency fee arrangement is entered into on and after

ASSEMBLY BILL 1074**SECTION 1**

1 June 14, 1986, and before the effective date of this subsection [revisor inserts
2 date], in addition to compensation for the reasonable costs of prosecution of the claim,
3 the compensation determined on a contingency basis and payable to all attorneys
4 acting for one or more plaintiffs or claimants is subject to the following limitations:

5 **SECTION 2.** 655.013 (1p) of the statutes is created to read:

6 655.013 **(1p)** (a) Except as provided in sub. (1t), with respect to any act of
7 malpractice for which a contingency fee arrangement is entered into on or after the
8 effective date of this subsection [revisor inserts date], in addition to compensation
9 for the reasonable costs of prosecution of the claim, the compensation determined on
10 a contingency basis and payable to all attorneys acting for one or more plaintiffs or
11 claimants shall be as follows:

- 12 1. Forty percent of the first \$50,000 recovered.
- 13 2. Thirty-three and one-third percent of the next \$50,000 recovered.
- 14 3. Twenty-five percent of the following \$500,000 recovered.
- 15 4. Fifteen percent of any amount in excess of \$600,000 recovered.

16 (b) In this subsection, the reasonable costs of prosecution of the claim does not
17 include medical costs incurred by the plaintiff, payments to consulting attorneys, or
18 the attorneys' office overhead costs and office support staff costs.

19 (END)