ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2005 ASSEMBLY BILL 1072

1   AN ACT *to amend* 893.55 (7); and *to create* 893.55 (8) of the statutes; **relating**

2   **to:** awards to persons suffering damages as the result of medical malpractice

3   and evidence of compensation for those damages.

Analysis by the Legislative Reference Bureau

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

4   **SECTION 1.** 893.55 (7) of the statutes is amended to read:

5   893.55 **(7)** Evidence of any compensation for bodily injury received from

6   sources other than the defendant to compensate the claimant for the injury is

7   admissible in an action to recover damages for medical malpractice. Evidence of the

8   claimant's obligations of subrogation or reimbursement resulting from payments

9   made by sources other than the defendant to compensate the claimant for the injury

1   is admissible in an action to recover damages for medical malpractice. This section

2   does not limit the substantive or procedural rights of persons who have claims based

3   upon subrogation.

4   **SECTION 2.** 893.55 (8) of the statutes is created to read:

5   893.55 **(8)** (a) If medical malpractice did occur, the finder of fact shall determine

6   all of the following:

7   1. The reasonable value of services for which any payment was provided from

8   sources other than the defendant to compensate the claimant for the injury resulting

9   from the medical malpractice.

10   2. The amount that the claimant is legally obligated to pay the sources under

11 subd. 1. for the compensation provided by those sources under subd. 1., either

12 through subrogation or by reimbursement.

13   (b) The finder of fact may subtract some or all of the amount determined under

14 par. (a) 2. from the amount determined under par. (a) 1. and reduce the amount of

15 damages awarded to the claimant under ch. 655 by that difference.

16   **SECTION 3. Initial applicability.**

17   (1) This act first applies to medical malpractice acts or omissions occurring on

18 the effective date of this subsection.

19   **(END)**