



General Assembly

February Session, 2004

Amendment

LCO No. 4113

HB0566904113HDO

Offered by:

REP. FELTMAN, 6th Dist.

To: Subst. House Bill No. 5669

File No. 504

Cal. No. 355

(As Amended)

"AN ACT CONCERNING MEDICAL MALPRACTICE INSURANCE REFORM."

1 Strike subsection (c) of section 15 in its entirety and insert the
2 following in lieu thereof:

3 "(c) (1) Whenever a claimant in a medical malpractice case enters
4 into a contingency fee arrangement with an attorney which provides
5 for a fee that would exceed the percentage limitations set forth in
6 subsection (b) of this section, such arrangement shall not be valid
7 unless the claimant's attorney files an application with the court for
8 approval of such arrangement and the court, after a hearing, grants
9 such application. The claimant's attorney shall attach to such
10 application a copy of such fee arrangement and the proposed unsigned
11 writ, summons and complaint in the case. Such fee arrangement shall
12 provide that the attorney will advance all costs in connection with the
13 investigation and prosecution or settlement of the case and the
14 claimant will not be liable for the reimbursement of the attorney for

15 any such costs if there is no recovery.

16 (2) At the hearing the court shall address the claimant personally to
17 determine if the claimant understands his or her rights under
18 subsection (b) of this section and has knowingly and voluntarily
19 waived such rights. The court shall grant such application if it finds
20 that the claimant has knowingly and voluntarily waived such rights
21 and that the case is so substantially complex, unique or different from
22 other medical malpractice cases as to warrant a deviation from such
23 percentage limitations. The claimant's attorney shall have the burden
24 of showing at the hearing that such deviation is warranted. The
25 claimant's attorney at such hearing shall be a public defender, assistant
26 public defender or deputy assistant public defender in the judicial
27 district in which such hearing is held. Such attorney shall be appointed
28 by the court. In no event shall the court grant an application approving
29 a fee arrangement that provides for a fee that exceeds an amount equal
30 to thirty-three and one-third per cent of the damages awarded and
31 received by the claimant or of the settlement amount received by the
32 claimant. If the court denies the application, the court shall advise the
33 claimant of the claimant's right to seek representation by another
34 attorney willing to abide by the percentage limitations set forth in
35 subsection (b) of this section. Only one application may be filed under
36 this subsection with respect to the claimant and the claimant's case.

37 (3) The filing of such application shall toll the applicable statute of
38 limitations until ninety days after the court's decision to grant or deny
39 the application. The decision of the court to grant or deny the
40 application shall not be subject to appeal. The Chief Court
41 Administrator shall assign a judge or judges with experience in
42 personal injury cases to hear and determine applications filed under
43 this subsection. A transcript of the hearing shall be prepared, and such
44 transcript shall be sealed and available for the use of the court only."

45 After the last section, add the following and renumber sections and
46 internal references accordingly:

47 "Sec. 501. (NEW) (*Effective from passage*) When a hearing is held on a
48 waiver from the statutory fee arrangement pursuant to section 52-251c
49 of the general statutes, as amended by this act, a public defender,
50 assistant public defender or deputy assistant public defender shall be
51 appointed by the court to represent the claimant in the matter. The
52 claimant shall be subject to the provisions of section 51-298 of the
53 general statutes."