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1350 Connecticut Ave., N.W. Suite 200, Washington, D.C. 20036  
(202) 331-0600 Fax: (202) 429-9088

Michael A. Abelson

E-mail: [consult@abelsonlaw.com](mailto:consult@abelsonlaw.com) Web site: [abelsonlaw.com](http://abelsonlaw.com)

Of Counsel O'Toole, Rothwell, Nassau, and Steinbach

Admitted in D.C., Maryland, Pennsylvania and Massachusetts

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## Please Support SB 392 -

### AN ACT CONCERNING INSURANCE COVERAGE FOR ACUPUNCTURE TREATMENTS PROVIDED BY CHIROPRACTORS AND THE MINIMUM PROFESSIONAL LIABILITY INSURANCE CARRIED BY CHIROPRACTORS

Good Morning Senator Crisco, Representative Fontana and distinguished members of the Insurance and Real Estate Committee. I wish to testify in support of Section 3 of SB 392.

My name is Michael Abelson and I am an attorney who has represented many chiropractic stroke victims. Besides the severity of the victim's injuries which often includes permanent paralysis and extensive neurological deficits, stroke victims are faced with huge financial devastation due to lifelong rehabilitation and care.

Consider what could be a typical scenario below:

Assume a 31 year old married woman. Her name is Judy. She is well educated, she is happily married, and she and her husband have one child. She has been rushed to the hospital suffering from a brain stem stroke. Three hours earlier her neck had been manipulated by a chiropractor. The chiropractor manipulated her neck because she had back pain.

The chiropractic neck adjustment had caused a dissection of her vertebral artery. She had a brain stem stroke. She has made it through the next 48 hours in the hospital, her husband at her side. She is going to live. What lies ahead of her?

Judy cannot speak. She is going to have to learn how to speak again. She cannot swallow. She will be fed by a tube and hopefully weaned off it in a few months. She has trouble with her eyesight. Judy cannot control her bowel and bladder. She will always be bound to a wheelchair for mobility. She will require assistance from others for transfer from wheelchair. Her muscle tone will decrease because she is always sedentary. She will be isolated socially....for she will have limited access to her friends and to her community.

### Ongoing needs of Judy:

Judy will need to have assistance for all activities of daily living. Someone will have to supervise her all day and night just to be safe. The house must have another bedroom to accommodate overnight staff, and ample living space to allow for the therapeutic and adaptive equipment. Doors and hallways no less than 30" in width to allow for her wheelchair. The wheelchairs will last for 5 years and need to be replaced.

Judy will need to have her home adapted to allow for her limited mobility. Judy will need ramps, accessible bath and shower. Cabinets and countertops accessible for wheelchair. Specially equipped van for transportation – wheelchair lifts. Maintenance on the van. People to drive the van for Judy.

Judy was a college graduate. At the time her neck was manipulated, she was earning \$37,000 per year as a secretary with General Electric. She can no longer work at all. Her husband is incapable of providing for her care at home and - at the same time - continue to earn a living for the family. They have a child who will soon have adolescent and teenage needs. Judy can no longer work.

Judy needs physical therapy for the rest of her life. She needs supervision for the rest of her life. With adequate nurturing, care and support, she will live a normal life expectancy.

Judy desperately needs a way to find meaning, happiness. She will attend adult daily programs where the day is structured with activities to provide a meaningful experience for her.

### Future Health Care Needs

Judy will require at least two hospital admissions per year, for 3 days at a time, for the rest of her life.

When Judy is at "home" she will need to see the following health care providers for the rest of her life...some more often than others: skilled nursing care, personal care assistant live in responsible for 8 hours and night time call, internal medicine, physiatrist, neurologist, ophthalmologist, gastroenterologist, psychiatrist, occupational therapy, physical therapy, and a case manager. Family counseling for Judy and the family.

Judy will require medications for the rest of her life – for seizure control, muscle relaxants, sleep, bladder tone, injections to limit the decrease in her muscle tone. Depression, among other emotional deficits.

Judy will require reusable bed pads, incontinence adult diapers.

Her husband may not live forever.

Present value of lost earnings:

Assume 31 year old stroke victim, college graduate, earning \$37,000 per year, not capable of gainful employment due to stroke. It will be projected that, absent the chiropractic manipulation, she would have been gainfully employed throughout her work life expectancy (age 65).

Reduced to PRESENT VALUE, her lost earnings are **\$1.35 million.**

Present value of future life care expenses:

Assumes 31 year old stroke victim, college graduate, life expectancy to age 80. Medical goods and services - \$400,000.00 General goods and services (supplies and equipment) - \$300,000.00. Medically related labor costs (e.g. physical therapy, occupational therapy, counseling, attendant care and evaluations – PRESENT VALUE range is between **\$3.65 million - \$4.2 million.**

The ECONOMIC needs to support Judy as a result of the neck manipulation are over \$5 million. She has lost the ability to earn a living. The ECONOMIC claim is meant simply to sustain Judy, allow her to receive adequate care and support so she can have a meaningful life.

The NON ECONOMIC LOSS suffered by Judy is a lot more difficulty to assess. Generally this claim is known as “pain and suffering.” When you think about it, the ECONOMIC loss is not compensating Judy for anything. ECONOMIC LOSS is simply putting money in the pockets of others just to care for Judy.

What amount of money will “make up” for her injuries, their effect over a lifetime of suffering? The effect her stroke has had on her overall physical and mental health and well being? The disfigurement. The humiliation of not being able to control her bowel and bladder?

If the ECONOMIC LOSS can be determined with reasonable professional certainty to be in excess of \$5 million, then certainly her non economic loss is of equal measure, and even more so.

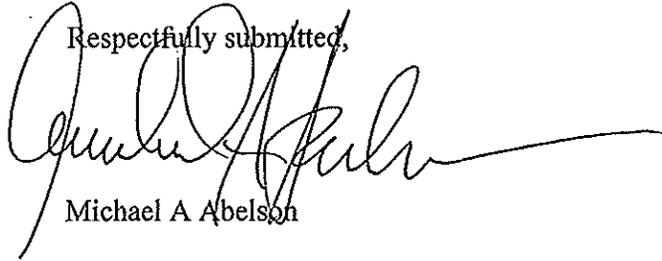
**WHAT IS SUFFICIENT LIABILITY INSURANCE COVERAGE FOR A CHIOPRACTOR WHO CAUSES THE PATIENT TO HAVE A BRAIN STEM STROKE?**

The minimum amount of insurance that chiropractors should be required to have is at least \$1,000,000.00. The litigation costs of malpractice cases are expensive. Any attorney must weigh the costs to pursue the case vs. the value of the case and the insurance coverage available. While \$1 million coverage is wholly inadequate to take care of victims such as Judy, it will help other stroke victims with less extensive deficits to help lessen their burden.

A stroke is a severe life long injury, with a permanent disability that victims and their caretakers must suffer for the rest of their lives.

This is an important bill that I hope you will pass to assist victims of chiropractic stroke; to put the burden of health care costs onto the professional liability insurance company of a chiropractor who deviates from the reasonable and professional standards of care.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael A. Abelson", with a long horizontal flourish extending to the right.

Michael A. Abelson