

1st Sub. S.B. 245

MEDICAL DISPUTE RESOLUTION AMENDMENTS

HOUSE FLOOR AMENDMENTS

AMENDMENT 1

MARCH 1, 2004 5:33 PM

Senator **Stephen Urquhart** proposes the following amendments:

1. Page 1, Line 26: Delete "and"
2. Page 2, Line 28: Delete "." and insert "; and
▶ limits attorney's contingency fees in medical malpractice cases."
3. Page 2, Line 34: After line 34 insert:
"78-14-7.5, as enacted by Chapter 67, Laws of Utah 1985"
4. Page 2, Line 37: After Line 37 insert:
"Section 1. Section **78-14-7.5** is amended to read:
78-14-7.5. Limitation on attorney's contingency fee in malpractice action.
(1) In any malpractice action against a health care provider as defined in Section 78-14-3, an attorney shall not collect a contingent fee for representing a client seeking damages in connection with or arising out of personal injury or wrongful death caused by the negligence of another which exceeds [~~33-1/3% of the amount recovered.~~]:
(a) 40% of any amount recovered up to and including \$50,000;
(b) 33 1/3% of any amount recovered that is over \$50,000, up to and including \$100,000;
(c) 25% of any amount recovered that is over \$100,000, up to and including \$600,000; and
(d) 15% of any amount recovered that is in excess of \$600,000.
(2) Attorneys fees under Subsection (1) shall be reduced by 5% whenever a malpractice action against a health care provider is resolved within one year of the provider receiving notice of the claim.
(3) A client shall be informed in writing:
(a) that Utah law establishes a maximum limit on contingent attorneys fees;
(b) how the attorneys fees compare with Utah's contingent fee

limits; and

(c) what litigation costs are, what the expected range of costs will be, the ability of the attorney under Utah law to make litigation costs contingent on the outcome of the case, and whether, in fact, litigation costs will be contingent in the matter.

[~~(2)~~] (4) This [~~limitation~~] section applies regardless of whether the recovery is by settlement, arbitration, judgment, or whether appeal is involved."

Renumber remaining sections accordingly.