

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

H

D

HOUSE DRH40025-MH-2 (12/04)

Short Title: Collateral Source Evid. Admissable/Med Mal.

(Public)

Sponsors: Representative Rapp.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW JURIES TO CONSIDER EVIDENCE OF CERTAIN COLLATERAL  
SOURCE PAYMENTS IN MEDICAL MALPRACTICE ACTIONS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 90-21.11 reads as rewritten:

**"§ 90-21.11. Definitions.**

~~As used in this Article, the term "health care provider" means without limitation any person who pursuant to the provisions of Chapter 90 of the General Statutes is licensed, or is otherwise registered or certified to engage in the practice of or otherwise performs duties associated with any of the following: medicine, surgery, dentistry, pharmacy, optometry, midwifery, osteopathy, podiatry, chiropractic, radiology, nursing, physiotherapy, pathology, anesthesiology, anesthesia, laboratory analysis, rendering assistance to a physician, dental hygiene, psychiatry, psychology; or a hospital or a nursing home; or any other person who is legally responsible for the negligence of such person, hospital or nursing home; or any other person acting at the direction or under the supervision of any of the foregoing persons, hospital, or nursing home.~~

~~As used in this Article, the term "medical malpractice action" means a civil action for damages for personal injury or death arising out of the furnishing or failure to furnish professional services in the performance of medical, dental, or other health care by a health care provider.~~The following definitions apply in this Article:

(1) Collateral source payments. – A payment for an expense for which recovery is permitted in a medical malpractice action that is made to or for the benefit of a plaintiff or is otherwise available to the plaintiff:

- a. For medical expenses and disability payments under the federal Social Security Act, any federal, state, or local income disability act, or any other public program.
- b. Under any health, sickness, or income disability insurance or automobile accident insurance that provides health benefits or income disability coverage, and any other similar insurance benefits available to the plaintiff, except life insurance.
- c. Under any contract or agreement of any person, group, organization, partnership, or corporation to provide, pay for, or reimburse the costs of hospital, medical, dental, or health care services.



\* D R H 4 0 0 2 5 - M H - 2 \*

1           d.       Under any contractual or voluntary wage continuation plan provided  
2                   by an employer or other system intended to provide wages during a  
3                   period of disability.

4           e.       From any other source.

5           A collateral source payment does not include gifts, gratuitous contributions  
6           or assistance, or payments arising from assets of the plaintiff.

7       (2)       Health care provider. – Any person who, pursuant to the provisions of  
8           Chapter 90 of the General Statutes, is licensed, or is otherwise registered or  
9           certified to engage in the practice of or otherwise performs duties associated  
10           with any of the following: medicine, surgery, dentistry, pharmacy,  
11           optometry, midwifery, osteopathy, podiatry, chiropractic, radiology, nursing,  
12           physiotherapy, pathology, anesthesiology, anesthesia, laboratory analysis,  
13           rendering assistance to a physician, dental hygiene, psychiatry, psychology;  
14           or a hospital or a nursing home; or any other person who is legally  
15           responsible for the negligence of such person, hospital, or nursing home; or  
16           any other person acting at the direction or under the supervision of any of the  
17           foregoing persons, hospital, or nursing home.

18       (3)       Medical malpractice action. – A civil action for damages for personal injury  
19           or death arising out of the furnishing or failure to furnish professional  
20           services in the performance of medical, dental, or other health care by a  
21           health care provider."

22           **SECTION 2.** Article 1B of Chapter 90 of the General Statutes is amended by  
23 adding the following new section to read:

24       "§ 90-21.18A. Accounting for certain collateral source payments in medical malpractice  
25       actions.

26           In any medical malpractice action, the court shall allow into evidence, if requested by a  
27           defendant, collateral source payments paid to or for the benefit of the plaintiff, or that are  
28           otherwise available to the plaintiff, related to the losses or damages alleged in the medical  
29           malpractice action. The court shall allow into evidence, if requested by the plaintiff, rights of  
30           subrogation of any collateral source."

31           **SECTION 3.** This act becomes effective December 1, 2009, and applies to causes  
32 of actions arising on or after that date.