

# SENATE BILL No. 394

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 34-18.

**Synopsis:** Medical malpractice. Provides that medical bills and medical expenses incurred in connection with the alleged injury or death of a patient are excluded from the maximum amount of damages that may be recovered in a medical malpractice action. Increases the amount that a health care provider is liable for in a medical malpractice action from \$500,000 to \$600,000 after June 30, 2022. Provides that recoverable medical expenses incurred in connection with the injury or death of a patient due from a judgment or settlement in a medical malpractice action shall be paid by the health care provider. Reduces the amount that a plaintiff's attorney may receive in a medical malpractice action from 32% to 25% of any recovery after June 30, 2022.

**Effective:** July 1, 2022.

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## Niemeyer

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January 11, 2022, read first time and referred to Committee on Judiciary.

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Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

## SENATE BILL No. 394

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 34-18-14-3, AS AMENDED BY P.L.182-2016,  
2 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2022]: Sec. 3. (a) The total amount recoverable for an injury  
4 or death of a patient, **not including recovery for medical bills and**  
5 **medical expenses incurred in connection with the injury or death**  
6 **of a patient**, may not exceed the following:  
7 (1) Five hundred thousand dollars (\$500,000) for an act of  
8 malpractice that occurs before January 1, 1990.  
9 (2) Seven hundred fifty thousand dollars (\$750,000) for an act of  
10 malpractice that occurs:  
11 (A) after December 31, 1989; and  
12 (B) before July 1, 1999.  
13 (3) One million two hundred fifty thousand dollars (\$1,250,000)  
14 for an act of malpractice that occurs:  
15 (A) after June 30, 1999; and  
16 (B) before July 1, 2017.  
17 (4) One million six hundred fifty thousand dollars (\$1,650,000)



1 for an act of malpractice that occurs:

2 (A) after June 30, 2017; and

3 (B) before July 1, 2019.

4 (5) One million eight hundred thousand dollars (\$1,800,000) for  
5 an act of malpractice that occurs after June 30, 2019.

6 (b) **Except as provided in subsection (e)**, a health care provider  
7 qualified under this article (or IC 27-12 before its repeal) is not liable  
8 for an amount in excess of the following:

9 (1) Two hundred fifty thousand dollars (\$250,000) for an act of  
10 malpractice that occurs:

11 (A) after June 30, 1999; and

12 (B) before July 1, 2017.

13 (2) Four hundred thousand dollars (\$400,000) for an act of  
14 malpractice that occurs:

15 (A) after June 30, 2017; and

16 (B) before July 1, 2019.

17 (3) Five hundred thousand dollars (\$500,000) for an act of  
18 malpractice that occurs after June 30, 2019, **and before July 1,**  
19 **2022.**

20 (4) **Six hundred thousand dollars (\$600,000) for an act of**  
21 **malpractice that occurs after June 30, 2022.**

22 (c) Any amount due from a judgment or settlement that is in excess  
23 of the total liability of all liable health care providers, subject to  
24 subsections (a), (b), ~~and~~ (d), **and (e)**, shall be paid from the patient's  
25 compensation fund under IC 34-18-15.

26 (d) If a health care provider qualified under this article (or IC 27-12  
27 before its repeal) admits liability or is adjudicated liable solely by  
28 reason of the conduct of another health care provider who is an officer,  
29 agent, or employee of the health care provider acting in the course and  
30 scope of employment and qualified under this article (or IC 27-12  
31 before its repeal), the total amount that shall be paid to the claimant on  
32 behalf of the officer, agent, or employee and the health care provider  
33 by the health care provider or its insurer is the following:

34 (1) Two hundred fifty thousand dollars (\$250,000) for an act of  
35 malpractice that occurs:

36 (A) after June 30, 1999; and

37 (B) before July 1, 2017.

38 (2) Four hundred thousand dollars (\$400,000) for an act of  
39 malpractice that occurs:

40 (A) after June 30, 2017; and

41 (B) before July 1, 2019.

42 (3) Five hundred thousand dollars (\$500,000) for an act of



1 malpractice that occurs after June 30, 2019, **and before July 1,**  
 2 **2022.**

3 **(4) Six hundred thousand dollars (\$600,000) for an act of**  
 4 **malpractice that occurs after June 30, 2022.**

5 The balance of an adjudicated amount to which the claimant is entitled  
 6 shall be paid by other liable health care providers or the patient's  
 7 compensation fund, or both.

8 **(e) All recoverable medical expenses incurred in connection with**  
 9 **the injury or death of a patient due from a judgment or settlement**  
 10 **shall be paid by the health care provider.**

11 SECTION 2. IC 34-18-18-1, AS AMENDED BY P.L.182-2016,  
 12 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2022]: Sec. 1. When a plaintiff is represented by an attorney  
 14 in the prosecution of the plaintiff's claim subject to IC 34-18-8-4, the  
 15 plaintiff's attorney's fees may not exceed, for an act of malpractice  
 16 committed:

17 (1) before July 1, 2017, fifteen percent (15%) of any recovery  
 18 from the fund; ~~and~~

19 (2) after June 30, 2017, **and before July 1, 2022**, thirty-two  
 20 percent (32%) of any recovery under IC 34-18-14-3; **and**

21 **(3) after June 30, 2022, twenty-five percent (25%) of any**  
 22 **recovery under IC 34-18-14-3.**

