

# State of Tennessee

## PUBLIC CHAPTER NO. 852

### SENATE BILL NO. 2253

By Stevens, Yager

Substituted for: House Bill No. 2001

By Farmer, Garrett, Grills, Littleton

AN ACT to amend Tennessee Code Annotated, Title 29, Chapter 26, relative to healthcare liability actions.

WHEREAS, Tennessee Code Annotated, Section 29-26-119, was enacted in 1975, prior to the current landscape where health insurance companies contractually require healthcare providers to discount fees and pay for insureds' medical expenses partly by requiring providers to forgive a portion of them; and

WHEREAS, the Tennessee Supreme Court issued its opinion in *Crotty v. Flora*, 676 S.W.3d 589 (Tenn. 2023), on September 29, 2023, stating, "To say that section 29-26-119 is not a model of clarity is perhaps an understatement"; and

WHEREAS, the common law collateral source rule has historically not been applied in health care liability actions; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 29-26-119, is amended by deleting the section and substituting:

(a) As used in this section, "actual economic losses" means the financial costs incurred by the claimant by reason of the personal injury, including the cost of reasonable and necessary medical care, rehabilitation services, and custodial care.

(b) In all health care liability actions, the common law collateral source rule is abrogated as specified in this section.

(c) In a health care liability action, the damages awarded may include, in addition to other elements of damages authorized by law, past and future actual economic losses suffered by the claimant.

(d) Past actual economic losses are limited to:

(1) The amounts that have been paid or will be paid by the assets of the claimant or on the claimant's behalf; and

(2) The amounts the claimant's providers have accepted or will accept as full payment for reasonable and necessary medical care, rehabilitation services, or custodial care, whether pursuant to:

(A) An agreement with an insurance company or third-party payor;

(B) The authorized reimbursement rates for a government health insurance program in which the claimant and the provider participate; or

(C) Any charity, discount program, write-off, gift, or other reason by the provider.

(e) Actual economic losses will only be limited to the extent that documentation of the reduction is submitted.

SECTION 2. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it, and applies to all health care liability actions filed on or after September 29, 2023, the public welfare requiring it.


SENATE BILL NO. 2253

PASSED: April 16, 2024

  
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RANDY McNALLY  
SPEAKER OF THE SENATE

  
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CAMERON SEXTON, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 1<sup>st</sup> day of May 2024

  
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BILL LEE, GOVERNOR