

2SHB 2292 - S AMD to S COMM AMD (S5455.1) **168**
By Senator Mulliken

NOT ADOPTED 2/22/2006

1 On page 60, after line 19, insert the following:

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3 "Sec. 317. RCW 7.70.070 and 1975-'76 2nd ex.s. c 56 s 12 are each
4 amended to read as follows:

5 (1) Except as set forth in subsection (2) of this section, the court
6 shall, in any action under this chapter, determine the reasonableness
7 of each party's attorneys fees. The court shall take into
8 consideration the following:

9 ~~((1))~~ (a) The time and labor required, the novelty and difficulty
10 of the questions involved, and the skill requisite to perform the legal
11 service properly;

12 ~~((2))~~ (b) The likelihood, if apparent to the client, that the
13 acceptance of the particular employment will preclude other employment
14 by the lawyer;

15 ~~((3))~~ (c) The fee customarily charged in the locality for similar
16 legal services;

17 ~~((4))~~ (d) The amount involved and the results obtained;

18 ~~((5))~~ (e) The time limitations imposed by the client or by the
19 circumstances;

20 ~~((6))~~ (f) The nature and length of the professional relationship
21 with the client;

22 ~~((7))~~ (g) The experience, reputation, and ability of the lawyer
23 or lawyers performing the services;

24 ~~((8))~~ (h) Whether the fee is fixed or contingent.

25 (2)(a) An attorney may not contract for or collect a contingency
26 fee for representing a person in connection with an action for damages
27 against a health care provider based upon professional negligence in
28 excess of the following limits:

29 (i) Forty percent of the first fifty thousand dollars recovered;

30 (ii) Thirty-three and one-third percent of the next fifty thousand
31 dollars recovered;

32 (iii) Twenty-five percent of the next five hundred thousand dollars recovered;

33 (iv) Fifteen percent of any amount in which the recovery exceeds six

1 hundred thousand dollars.

2 (b) The limitations in this section apply regardless of whether the
3 recovery is by judgment, settlement, arbitration, mediation, or other
4 form of alternative dispute resolution.

5 (c) If periodic payments are awarded to the plaintiff, the court shall
6 place a total value on these payments and include this amount in
7 computing the total award from which attorneys' fees are calculated
8 under this subsection.

9 (d) For purposes of this subsection, "recovered" means the net sum
10 recovered after deducting any disbursements or costs incurred in
11 connection with prosecution or settlement of the claim. Costs of
12 medical care incurred by the plaintiff and the attorneys' office
13 overhead costs or charges are not deductible disbursements or costs for
14 such purposes.

15 (3) This section applies to all agreements for attorneys' fees entered
16 into or modified after the effective date of this section."

17 Renumber the sections consecutively and correct any internal
18 references accordingly.

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23 On page 61, line 15 of the title amendment, after "7.70.100,"
24 strike "and 7.70.080" and insert "7.70.080, and 7.70.070"

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EFFECT: In an action against a health care provider, an attorney may not contract for or collect a fee in excess of 40% for the first \$50,000 recovered, 33 1/3% for the next \$50,000 recovered, 25% for the next \$500,000 recovered, and 15% for any amount over \$600,000.