

2001 SESSION

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HOUSE JOINT RESOLUTION NO. 686

Offered January 10, 2001

Prefiled January 10, 2001

Requesting the Virginia State Bar to study write-offs and third-party reimbursement under the collateral source rule.

Patron—McDonnell

Referred to Committee on Rules

WHEREAS, there is a conflict between various legal doctrines effecting the application of the collateral source rule; and

WHEREAS, under the collateral source rule, damages recoverable from a tortfeasor shall not be reduced because the plaintiff has been partially compensated for loss by insurance for which he, himself, has paid; and

WHEREAS, medical expenses which are written off by a health care provider, it has been argued, are expenses for which the plaintiff is not responsible and cannot legally be held liable; and

WHEREAS, in medicaid and other government medical programs, the plaintiff does not pay expenses so the collateral source rule may not apply; and

WHEREAS, further, such an interpretation is consistent with the theory of compensatory damages, the purpose of which is to make the plaintiff whole again for losses actually sustained; and

WHEREAS, the complexities of health care billing today make it difficult to determine simply on its face what total charges are being billed; and

WHEREAS, the collateral source rule, long recognized in Virginia law, attempts to strike a balance between returning the victim to a state as close to whole as possible and holding the tortfeasor accountable for the entirety of his negligence; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia State Bar be requested to study write-offs and third-party reimbursement under the collateral source rule.

The Virginia State Bar shall complete its work in time to submit its findings and recommendations to the Governor and the 2002 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

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