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BILL HASLAM  
GOVERNOR

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COMMISSIONER

October 26, 2012

The Honorable Ron Ramsey  
Lt. Governor  
Legislative Plaza 1

The Honorable Beth Harwell  
Speaker of the House  
Legislative Plaza 19

Re: 2012 Tennessee Health Care Liability Claims Report (formerly the  
Tennessee Medical Malpractice Claims Report)

Dear Lt. Governor Ramsey and Speaker Harwell:

Tenn. Code Ann. § 56-54-101, as amended by 2011 Public Acts Ch 112, effective January 1, 2012, establishes health care liability claim reporting obligations for various insurance and medical entities (formerly the Tennessee Medical Malpractice Claims Report). Pursuant to this statute, please find enclosed the 2012 Tennessee Health Care Liability Claims Report which summarizes the information collected by this Department. As prescribed by law, this report contains only aggregate information regarding medical professional liability claims. A copy of this report will be posted on this Department's website. Please contact me if you have any questions concerning this report.

Sincerely,

  
Julie Mix McPeak

cc: Governor Bill Haslam

Enclosure

# **2012 Health Care Liability Claims Report**



**Department of Commerce & Insurance  
November 1, 2012**

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## 2012 Tennessee Health Care Liability Report

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## INTRODUCTION

In 2004, the Tennessee General Assembly enacted 2004 Tenn. Pub. Acts Ch. 902 which established reporting obligations for medical professional liability claims for various reporting entities. This law was codified at TENN. CODE ANN. § 56-54-101. Pursuant to TENN. CODE ANN. § 56-54-101(a), “reporting entities” was defined to include insurance companies and risk retention groups that provide medical malpractice or professional liability insurance, as well as health care professionals and facilities lacking medical malpractice insurance. This law was passed after months of testimony and research by the Joint Tort Reform Subcommittee chaired by State Representative Rob Briley and Senator David Fowler. The Final Report prepared by the Subcommittee recommended passage of legislation that would “provide the committee with a clearer picture of the litigation and claim trends in Tennessee....” The Department of Commerce and Insurance (the “Department”) provided testimony to the Subcommittee and actively participated in the development of legislation implementing the Subcommittee’s recommendations.

In general, TENN. CODE ANN. § 56-54-101 required reporting entities, on or before April 1 of each year, to provide information to the Department concerning the number of medical malpractice or professional liability claims asserted, the amount of damages alleged, any damages paid, the types of paid damages, and legal fees paid. The reporting requirements, as originally enacted, focused on the claims that were closed and pending during each calendar year.

TENN. CODE ANN. § 56-54-101 required the Department to prepare an annual report for the Speakers of the Senate and House of Representatives summarizing this data each year. The statute prescribed that the report may only contain aggregate data.

As a result of the information submitted by the reporting entities for the 2004 calendar year, the Department issued its first report in November of 2005. The report identified several issues necessitating additional information be reported, and the General Assembly modified the reporting requirements in the 2006 legislative session. On May 23, 2006 Tenn. Pub. Acts Ch. 744 was enacted which amended TENN. CODE ANN. § 56-54-101 to attempt to refine the information to be collected. In general, the amendment added a requirement that reporting entities report on the cumulative amount of costs and expenses spent on pending and closed claims from the “inception date of the claim to the end of the preceding calendar year.”

In 2008, the Tennessee General Assembly enacted 2008 Tenn. Pub. Acts Ch. 1009, effective January 1, 2009, which replaced Tennessee Code Annotated Title 56 (Insurance), Chapter 54 (Reports on Medical or Professional Malpractice Claims) with the “Tennessee Medical Malpractice Reporting Act.” It sets out largely the same reporting requirements, changes the date reporting entities’ reports are due to March 1 of each year, and adds, among other things, information to be collected in a manner consistent with the National Practitioner Data Bank. It defines a claim as, “A demand for monetary damages for injury or death caused by medical malpractice; or a voluntary indemnity payment for injury or death caused by medical malpractice.” Tenn. Pub. Acts Ch. 1009 also deleted the definition of “reporting entities” and imposed reporting requirements on specified insuring entities, self-insurers, facilities, and providers under TENN. CODE ANN. § 56-54-105.

In 2012, the Tennessee General Assembly enacted 2012 Tenn. Pub. Acts Ch. 798, effective April 23, 2012, which deletes the words “medical malpractice” and substitutes instead the words “health care liability” in Tennessee Code Annotated Title 56. (A copy of 2012 Tenn. Pub. Acts Ch. 798 is attached to this report as Appendix A.)

Where useful, this report provides not only the aggregate information for 2011, but also shows the information reported for 2007, 2008, 2009 and 2010 as a convenience to the reader.

## **I. REPORTING ENTITIES**

The information provided by this report is primarily comprised of information obtained from insurance companies writing health care liability insurance in this state. It is important to note that the top ten (10) health care liability insurance carriers account for over 95 percent of the total health care liability direct premiums written in Tennessee in 2011. In addition to requiring insurance companies to report the information enumerated in TENN. CODE ANN. § 56-54-105, health care facilities and professionals that are uninsured or that are insured by entities asserting federal exemption or other jurisdictional preemption from the reporting requirements are required to report information about their health care liability claims' experience. Only two (2) such health care providers and 98 such health care facilities submitted reports for 2011. Thirty of these health care facilities reported they had no claims to report. As identified in the previous reports, the Department remains unable to confirm that the information from this group is complete as it has no information concerning which facilities or professionals do, in fact, fall into such categories. As such, there may be claims and costs incurred in this state that are not included in this report.<sup>1</sup>

## **II. REPORTING PERIOD**

The period on which this report focuses is the 2011 calendar year. The Department required reporting entities to complete two (2) separate forms to meet their obligations under the law. One reporting form solicited information regarding all health care liability claims closed or otherwise resolved in 2011. The second form solicited information concerning health care liability claims that were still considered pending as of December 31, 2011.<sup>2</sup> Claims identified in the information submitted related to incidents occurring between 1978 and 2011. However, only 105 of the 6,282 claims reported (1.67 percent) arose out of an incident that occurred prior to 2000.<sup>3</sup>

## **III. CLAIMS CLOSED AND CLAIMS PENDING**

### ***A. Claims Closed***

The total number of health care liability claims reported as closed in 2011 was 2,332. This total represents claims resolved through the entry of a final court judgment, settlement with the claimant, alternative dispute resolution (ADR) by mediation, ADR by arbitration, private trial and other common dispute resolution methods, dismissed without action, or otherwise resolved by the reporting entity.

The following table demonstrates the comparative number of claims reported as closed in each of the five (5) categories:

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<sup>1</sup> Until the Department has the ability to identify the uninsured health care facilities and providers, as well as compel risk retention groups to report their information, the Department will remain unable to confirm the completeness of the information contained in these reports.

<sup>2</sup> The Department made the forms available to reporting entities on its web site for ease of access.

<sup>3</sup> Two (2) of the reported claims arise from events occurring in the 1970's, one (1) of the claims occurred in the 1980's, and 102 of the claims occurred in the 1990's.

**Table 1 – Claims Closed through Settlement, Adjudication, Alternative Dispute Resolution (ADR) or Other Resolution**

	2007 Totals	2007 %	2008 Totals	2008 %	2009 Totals	2009 %	2010 Totals	2010 %	<b>2011 Totals</b>	<b>2011 %</b>
Claims Resolved Through Judgment <sup>4</sup>	313	10.28	425	13.48	177	6.22	195	7.20	<b>114</b>	<b>4.89</b>
Claims Resolved Through Settlement	492	16.17	459	14.55	504	17.71	311	11.49	<b>289</b>	<b>12.39</b>
Claims Resolved Through ADR <sup>5</sup>	N/A	N/A	43	1.36	281	9.87	133	4.91	<b>145</b>	<b>6.22</b>
Claims Otherwise Resolved	2,238	73.55	2,227	70.61	1,884	66.20	2,068	76.40	<b>1,784</b>	<b>76.50</b>
<b>Total Number of Claims Closed</b>	<b>3,043</b>	<b>100.00</b>	<b>3,154</b>	<b>100.00</b>	<b>2,846</b>	<b>100.00</b>	<b>2,707</b>	<b>100.00</b>	<b>2,332</b>	<b>100.00</b>

**Table 2 – Paid and Unpaid Claims Closed in 2011**

	2010 Totals	2010 Percentages	<b>2011 Totals</b>	<b>2011 Percentages</b>
Paid Closed Claims	451	16.67	<b>437</b>	<b>18.74</b>
Unpaid Closed Claims	2,256	83.33	<b>1,895</b>	<b>81.26</b>
<b>Total Closed Claims</b>	<b>2,707</b>	<b>100.00</b>	<b>2,332</b>	<b>100.00</b>

## ***B. Claims Pending***

Pending claims are claims filed in 2011 or in prior years which were still unresolved as of December 31, 2011. It was reported that there were 3,950 claims pending as of December 31, 2011.

<sup>4</sup> This figure includes judgments for the defendant. Note also that beginning in 2007, these numbers do not include claims which went to trial and ended in judgments, and had high/low agreements prior to the judgment being rendered.

<sup>5</sup> This figure includes two (2) claims which went to trial and yielded a judgment for the plaintiff. Later the defendants appealed the verdict. The claims eventually settled through an alternative dispute resolution in 2009 for an amount different than what had been awarded at trial.

## **IV. DAMAGES AND COSTS**

### ***A. Damages Asserted by Claimants<sup>6</sup>***

Claimants asserted a total of \$3,282,515,594<sup>7</sup> (Three Billion, Two Hundred Eighty-two Million, Five Hundred Fifteen Thousand, Five Hundred Ninety-four Dollars) in damages for health care liability related injuries for the claims reported as having been closed in the 2011 reporting year. In the 2011 reporting year, claimants were paid damages totaling \$113,906,196 (One Hundred Thirteen Million, Nine Hundred Six Thousand, One Hundred Ninety-six Dollars) by way of judgments, traditional settlements, and ADR methods. The total damages paid during 2011 represents 3.47 percent of the damages that were asserted.

Claimants who had their claims disposed of in 2011 (closed without further payment to be made) were paid a total of \$138,453,640 (One Hundred Thirty-eight Million, Four Hundred Fifty-three Thousand, Six Hundred Forty Dollars) from the inception of their claims through December 31, 2011, or 4.22 percent of the damages that were asserted in those claims.

There were 3,950 claims filed but still pending (without final resolution) as of December 31, 2011. The damages asserted by those claimants total \$9,553,319,897 (Nine Billion, Five Hundred Fifty-three Million, Three Hundred Nineteen Thousand, Eight Hundred Ninety-seven Dollars). Of those asserted damages, \$30,251,512 (Thirty Million, Two Hundred Fifty-one Thousand, Five Hundred Twelve Dollars) have been paid to date.

### ***B. Damages Paid to Claimants***

Table Three (3) on the following page demonstrates the reported damages paid in 2011 on claims closed that year, broken down by payments made as a result of adjudication, settlement, or ADR.

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<sup>6</sup> Where reporting entities left the asserted damages field blank, an assumption is made that the amount asserted is the amount that was paid.

<sup>7</sup> This number includes all claims reported as closed during the 2011 reporting year regardless of when the claim was opened or lawsuit filed and whether or not any payments were made in 2011. Therefore, this number includes damages that were asserted in years prior to 2011.

**Table 3 – Amounts Paid In Damages for Claims Settled, Adjudicated or by Mediation or other ADR<sup>8</sup> and Closed During Reporting Year 2011**

	2007 Totals	2007 %	2008 Totals	2008 %	2009 Totals	2009 %	2010 Totals	2010 %	<b>2011 Totals</b>	<b>2011 %</b>
Total Damages Paid by Settlements	\$116,691,921	92.45	\$83,035,550	69.60	\$57,475,878	51.91	\$42,307,781	38.77	<b>57,414,009</b>	<b>50.40</b>
Total Damages Paid by Judgments	\$9,533,574	7.55	\$790,000	0.65	\$6,153,103	5.56	\$21,581,908	19.78	<b>1,536,349</b>	<b>1.35</b>
Total Damages Paid by ADR by Mediation	N/A	N/A	\$35,492,893	29.75	\$43,379,905	39.18	\$42,169,681	38.65	<b>54,955,838</b>	<b>48.25</b>
Total Damages Paid by ADR Other Than By Mediation	N/A	N/A	N/A	N/A	\$3,707,623	3.35	\$3,054,550	2.80	<b>0</b>	<b>0.00</b>
Total Damages Paid	\$126,225,495	100	\$119,318,443	100	\$110,716,509	100	\$109,113,920	100	<b>113,906,196</b>	<b>100</b>

### **C. Judgments**

In all, it was reported that there were 146 court judgments in 2011. It was reported that 140 of these judgments resulted in favorable rulings for the defendant where no damages were awarded to the claimant. Six (6) judgments were entered in favor of the plaintiff in 2011. One (1) of the judgments is on a claim still pending in which no payments have been made. In addition to the four (4) judgments entered and paid in 2011, one (1) was paid in 2011 although it was entered prior to 2011. Table Four (4) on the following page details the five (5) paid judgments and the types of damages awarded in each case.

<sup>8</sup> The total damages paid in 2007 by ADR through mediation are not shown because that data was not collected. Likewise, the total damages paid in 2007 and 2008 by ADR other than by mediation are not shown because that data was not collected.

**Table 4 – Total Damages Awarded By Final Court Judgment Paid in 2011**

Amount Paid	Date of Occurrence	Damages Claimed	Type of Provider/Specialty/Facility	Economic Damages	Non-Economic Damages	Severity of Injury
\$14,401	04/17/2009	\$14,401	Nursing Home	\$0	\$14,401	Significant Permanent Injury
\$40,000	2/12/2004	\$5,000,000	Hospital	\$40,000	\$0	Grave Permanent Injury
\$93,750	12/21/2007	\$1,100,000	Medical Doctors/General Surgery	\$13,000	\$80,750	Minor Temporary Injury
\$442,599	4/18/2006	\$442,599	Hospital	\$229,999	\$212,600	Major Temporary Injury
\$1,000,000	9/17/2008	\$20,000,000	Hospital/Emergency Medicine	\$1,000,000	\$0	Death

**D. Fees Paid to Claimants' Counsel**

TENN.CODE ANN. § 56-54-105(c)(1) requires counsel for claimants asserting health care liability claims to report their fee arrangements. The attorneys reported having received fees in the amount of \$49,248,628 (Forty-nine Million, Two Hundred Forty-eight Thousand, Six Hundred Twenty-eight Dollars) in 2011. This includes review fees received of \$500 (Five Hundred Dollars). The fees that claimants' attorneys reported receiving in 2011 are approximately 34 percent of the total amount reported by other entities as having been paid in damages to the claimants. The following table details the monies paid to claimants' counsel:

**Table 5 – Total Fees Paid to Claimants' Counsel on Claims in 2011**

	Fees Paid to Claimants' Counsel for Closed Claims	Average Amount of Fees Paid to Claimants' Counsel for Settlements	Average Amount of Fees Paid to Claimants' Counsel for Judgments	Average Amount of Fees Paid to Claimants' Counsel for Mediations	Average Amount of Fees Paid to Claimants' Counsel for Other ADRs
2007	\$34,925,167	29.77%	14.23%	N/A <sup>9</sup>	N/A
2008	\$38,802,022	23.09%	26.50%	25.19%	N/A
2009	\$47,919,183	35.37%	3.75%	41.03%	3.84%
2010	\$46,163,346	39.30%	19.56%	38.37%	2.77%
<b>2011</b>	<b>\$49,248,628</b>	<b>28.06%</b>	<b>57.09<sup>10</sup>%</b>	<b>27.57%</b>	<b>0%</b>

Of the reported claims, the majority of attorneys reported contingency agreements of 33 percent or less of the total damages. However, the range for fee agreements was from zero (0) percent to 69 percent.

<sup>9</sup> Data was not collected during 2007 and is, therefore, not available.

<sup>10</sup> Counsel for claimants reported \$346,345 (Three Hundred Forty-six Thousand, Three Hundred Forty-five Dollars) of fees received by judgments in 2011 that were not reported by an insuring entity. Counsel for claimant identified the facilities in this case and information obtained verified that the facilities failed to report. Until the Department has the ability to identify the uninsured health care facilities, the Department will remain unable to confirm the completeness of the information contained in these reports.

## E. Total Defense Costs and Expenses Paid on Claims

The total defense costs reported to have been paid during 2011 was \$80,928,642 (Eighty Million, Nine Hundred Twenty-eight Thousand, Six Hundred Forty-two Dollars). The total amount reported to have been paid to defense counsel in 2011 was \$68,811,966 (Sixty-eight Million, Eight Hundred Eleven Thousand, Nine Hundred Sixty-six Dollars)<sup>11</sup>. The following table details the defense costs paid in 2011 on closed and pending claims:

**Table 6 – Total Amounts Paid in Defense Costs in 2011**

	Fees Paid to Defense Counsel	Expert Witness Fees	Court Costs	Deposition Costs	Other Legal Fees
Pending Claims	\$51,897,778	\$4,500,165	\$62,681	\$973,363	\$2,331,306
Closed Claims	\$16,914,188	\$2,233,855	\$56,172	\$376,279	\$1,582,855
<b>Total</b>	<b>\$68,811,966</b>	<b>\$6,734,020</b>	<b>\$118,853</b>	<b>\$1,349,642</b>	<b>\$3,914,161</b>

**Table 7 – Total Amounts Paid in Defense Costs During the 2011 Reporting Year Broken Down by Paid and Unpaid Claims**

	# of Claims	Fees Paid to Defense Counsel	Expert Witness Fees	Court Costs	Deposition Costs	Other Legal Fees
Paid Claims	548	\$10,925,293	\$1,570,102	\$61,197	\$254,337	\$1,088,974
Unpaid Claims	5734	\$57,886,673	\$5,163,918	\$57,656	\$1,095,305	\$2,825,187
<b>Total</b>	<b>6282</b>	<b>\$68,811,966</b>	<b>\$6,734,020</b>	<b>\$118,853</b>	<b>\$1,349,642</b>	<b>\$3,914,161</b>

The total defense costs paid on closed and pending claims as of December 31, 2011, since the inception of such claims, was \$233,383,667 (Two Hundred Thirty-three Million, Three Hundred Eighty-three Thousand, Six Hundred Sixty-seven Dollars). The following table details these defense costs:

**Table 8 – Total Amounts Paid in Defense Costs on Claims from Inception through End of 2011 Reporting Year**

	Fees Paid to Defense Counsel	Expert Witness Fees	Court Costs	Deposition Costs	Other Legal Fees
Pending Claims	\$128,942,373	\$11,909,167	\$170,593	\$2,596,640	\$6,370,415
Closed Claims	\$68,813,695	\$7,967,727	\$120,617	\$1,762,644	\$4,729,796
<b>Total</b>	<b>\$197,756,068</b>	<b>\$19,876,894</b>	<b>\$291,210</b>	<b>\$4,359,284</b>	<b>\$11,100,211</b>

<sup>11</sup> For purposes of comparison, the approximate total defense fees reported as being paid in 2007, 2008, 2009 and 2010 was \$78.6 (Seventy-eight Million, Six Hundred Thousand Dollars), \$73.5 (Seventy-three Million, Five Hundred Thousand Dollars), \$84.7 (Eighty-four Million, Seven Hundred Thousand Dollars) and \$80.3 (Eighty Million, Three Hundred Thousand Dollars), respectively.

## V. CLAIM CHARACTERISTICS OF CLAIMS CLOSED IN 2011<sup>12</sup>

2008 Tenn. Pub. Acts Ch. 1009, effective January 1, 2009, sets out additional and more claim-specific reporting requirements, including details on the injured person’s sex and age on the incident date, the severity of the injury, the reason for the health care liability claim, and the geographic location where the incident occurred. More specific information about the health care facilities and health care providers against whom the claims were made was also required. The tables that follow provide descriptions of such information, as reported, regarding claims closed in 2011.<sup>13</sup>

### A. Reason for Health Care Liability Claim

TENN. CODE ANN. § 56-54-106(12) requires insuring entities, self-insurers, facilities and providers to report the reason for the health care liability claim using the same allegation group and specific allegation codes that are used for mandatory reporting to the National Practitioner Data Bank. The following tables show the top ten (10) types of health care liability and the top ten (10) types of injury which led to payments to claimants during the reporting year 2011 and the amount paid to such claimants from the inception of the claim.

**Table 9 - Top Ten (10) Types of Health Care Liability During Reporting Year 2011  
Ranked by Frequency<sup>14</sup>**

Type of Health Care Liability	Number of Claims	Amount Paid Since Inception of Claim
Surgery Related	527	\$28,358,638
Diagnosis Related	515	\$36,755,864
Treatment Related	414	\$18,385,178
Monitoring Related	187	\$15,782,494
Obstetrics Related	175	\$23,403,500
Medication Related	158	\$8,296,136
Anesthesia Related	52	\$1,034,445
Equipment/Product Related	35	\$1,553,300
IV & Blood Products Related	21	\$404,521
Behavioral Health Related	13	\$95,000
<b>Totals</b>	<b>2097</b>	<b>\$134,069,076</b>

<sup>12</sup> The report is formatted to collect data from the insurers of the providers and facilities in a medical malpractice claim. For that reason, several companion claims in the reported data will together represent a single malpractice related injury for a single claimant, but are reported as several claims filed against multiple providers and facilities. It is important to remember this when considering claims characteristics. These tables do not reflect the number of injuries, but the number of providers and facilities accused of causing that particular type of injury.

<sup>13</sup> The data included here about the age and severity of injury is specific to the claimant and, therefore, does not include data on companion claims to the extent that they can be identified. The data included here about the facilities, providers and the reasons for the medical malpractice claims is derived from all of the claim reports including those about companion claims.

<sup>14</sup> Tables Nine (9) and Ten (10) represent the top ten (10) classifications of types of medical malpractice in paid, closed claims during 2011. One Hundred Ninety-four claims were classified by reporting entities as “other/ miscellaneous” and 41 claims as “unknown”.

**Table 10 - Top Ten (10) Types of Health Care Liability During Reporting Year 2011  
Ranked by Amount in Damages Paid to Claimant**

<b>Type of Health Care Liability</b>	<b>Amount Paid Since Inception of Claim</b>	<b>Number of Claims</b>
Diagnosis Related	\$36,755,864	515
Surgery Related	\$28,358,638	527
Obstetrics Related	\$23,403,500	175
Treatment Related	\$18,385,178	414
Monitoring Related	\$15,782,494	187
Medication Related	\$8,296,136	158
Equipment/Product Related	\$1,553,300	35
Anesthesia Related	\$1,034,445	52
IV & Blood Products Related	\$404,521	21
Behavioral Health Related	\$95,000	13
<b>Totals</b>	<b>\$134,069,076</b>	<b>2097</b>

**Table 11 - Top Ten (10) Causes of Injury During Reporting Year 2011  
Ranked by Frequency<sup>15</sup>**

<b>Cause of Injury</b>	<b>Number of Claims</b>	<b>Amount Paid Since Inception of Claim</b>
Failure to Diagnose	176	\$13,001,979
Failure to Monitor	163	\$18,230,173
Improper Performance	162	\$4,882,904
Improper Management	92	\$4,948,830
Failure to Treat	89	\$7,490,999
Failure to Ensure Patient Safety	82	\$2,381,058
Radiology or Imaging Error	56	\$3,596,387
Delay in Diagnosis	49	\$4,304,999
Surgical or Other Foreign Body Retained	49	\$1,976,162
Failure to Recognize a Complication	42	\$10,866,249
Delay in Treatment	40	\$729,998
<b>Totals</b>	<b>1000</b>	<b>\$72,409,738</b>

<sup>15</sup> Tables 11 and 12 represent the top ten (10) classifications of causes of injury in paid, closed claims during 2011. Seven Hundred Sixty-two claims were classified by reporting entities as “cannot be determined from available records”, “allegation – not otherwise classified”, or “unknown”.

**Table 12 - Top Ten (10) Causes of Injury During Reporting Year 2011  
Ranked by Amount in Damages Paid to Claimant**

<b>Cause of Injury</b>	<b>Amount Paid Since Inception of Claim</b>	<b>Number of Claims</b>
Failure to Monitor	\$18,230,173	163
Failure to Diagnose	\$13,001,979	176
Failure to Recognize a Complication	\$10,866,249	42
Failure to Treat	\$7,490,999	89
Wrong Diagnosis Administered	\$5,250,000	18
Improper Management	\$4,948,830	92
Improper Performance	\$4,882,904	162
Delay in Diagnosis	\$4,304,999	49
Failure to Instruct or Communicate with Patient or Family	\$3,860,000	15
Radiology or Imaging Error	\$3,596,387	56
<b>Totals</b>	<b>\$76,432,520</b>	<b>862</b>

***B. Age and Sex of Claimant***

TENN. CODE ANN. § 56-54-106(7) requires insuring entities, self-insurers, facilities and providers to report the injured person’s age on the date of the medical incident. The following table shows the number of claims which were closed in 2011 in each claimant age group<sup>16</sup>:

**Table 13 – Number of Claims Closed in 2011 Broken Down by Age of Claimant<sup>17</sup>**

<b>Age Range</b>	<b>Number of Claimants</b>
0-13 years	155
14-20 years	47
21-35 years	234
36-49 years	340
50-64 years	435
65+ years	413

Based on the data submitted for claims reported to have been closed in 2011 1,000 incidents of alleged health care liability involved females and 707 incidents involved males. On four (4) occasions reporting entities submitted that the claimant’s gender was unknown.

<sup>16</sup> This table represents all claims closed in 2011, whether paid or unpaid.

<sup>17</sup> Eighty Seven claimants’ ages were reported as “unknown”.

### C. Severity of Injury

TENN. CODE ANN. § 56-54-106(8) requires insuring entities, self-insurers, facilities and providers to report the severity of the health care liability injury using the National Practitioner Data Bank severity scale. The classifications available to demonstrate severity of injury include: emotional injury only, insignificant injury, minor temporary injury, major temporary injury, minor permanent injury, significant permanent injury, major permanent injury, grave permanent injury, and death. The following table breaks down those levels of severity by the number of claims closed and the amount of those claims paid versus unpaid at each level of severity<sup>18</sup>.

**Table 14 – Severity of Injury in Claims Closed During Reporting Year 2011**

Severity of Injury	Number of Claims	Number of Claims Paid During 2011	Number of Claims Not Paid
Death	474	109	365
Minor Temporary	285	68	217
Major Temporary	268	62	206
Significant Permanent	117	35	82
Insignificant	82	15	67
Major Permanent	79	21	58
Emotional Only	72	9	63
Minor Permanent	72	13	59
Grave Permanent	67	15	52

**Table 15 – Severity of Injury in Claims Closed and Amounts Paid in Damages During Reporting Year 2011<sup>19</sup>**

Severity of Injury	Amount Paid in Damages in 2011
Death	\$48,152,380
Major Permanent	\$19,489,758
Major Temporary	\$13,656,135
Significant Permanent	\$11,935,108
Grave Permanent	\$11,279,871
Minor Temporary	\$5,418,196
Minor Permanent	\$1,495,500
Insignificant	\$374,921
Emotional Only	\$279,232

<sup>18</sup> The table referenced in this paragraph does not include companion claims, where those can be identified. The table detailing severity of injury is specific to the claimant, and therefore the numbers represented are based on the number of injured claimants and not the number of providers that injuries were alleged against.

<sup>19</sup> In 2011, claimants were paid a total of \$575,000 (Five Hundred Seventy-five Thousand Dollars) and \$1,250,095 (One Million, Two Hundred Fifty Thousand, Ninety-five Dollars) for claims in which the severity of the injury was “unknown” or where it “could not be determined” by available records, respectively. Tables 15 and 16 include data reported on companion claims.

**Table 16 – Severity of Injury in Claims Closed, Ranked by Amounts Paid in Damages from Inception of Claim through Reporting Year 2011**

Severity of Injury	Amount Paid in Damages For Life of the Claim
Death	\$61,359,352
Major Permanent	\$23,877,653
Major Temporary	\$15,430,769
Significant Permanent	\$15,201,875
Grave Permanent	\$12,014,871
Minor Temporary	\$5,873,643
Minor Permanent	\$1,948,250
Emotional Only	\$472,021
Insignificant	\$375,111

### **D. Geographic Location**

TENN. CODE ANN. § 56-54-106(6) requires insuring entities, self-insurers, facilities and providers to report the geographic location, by city and county, where the health care liability incident occurred. Seventy-nine counties were reported to have been the geographic location of an incident giving rise to a claim closed in 2011. Of the 2,299 claims reported with a Tennessee geographic location, the total payment reported to have been made during reporting year 2011 is \$112,306,196 (One Hundred Twelve Million, Three Hundred Six Thousand, One Hundred Ninety-six Dollars).

The following table shows statistics for the ten (10) counties with the highest number of health care liability claims.

**Table 17 – Top Ten (10) Counties Ranked by Number of Claims During Reporting Year 2011<sup>20</sup>**

County Name	Number of Claims	Percentages of Total Claims	Amounts Paid to Claimants
Shelby	736	32.01	\$54,619,931
Davidson	284	12.35	\$15,453,229
Knox	200	8.70	\$6,342,500
Hamilton	135	5.87	\$3,883,126
Sullivan	82	3.57	\$2,611,353
Madison	75	3.26	\$2,084,999
Washington	58	2.52	\$2,687,498
Rutherford	53	2.31	\$5,040,000
Sumner	44	1.91	\$427,500
Williamson	35	1.52	\$604,100

<sup>20</sup> Tables 17 and 18 include data reported on companion claims.

**Table 18 – Top Ten (10) Counties Ranked by Amount in Damages Paid to Claimants During Reporting Year 2011**

County Name	Number of Claims	Percentages of Total Claims	Amounts Paid to Claimants
Shelby	736	32.01	\$54,619,931
Davidson	284	12.35	\$15,453,229
Knox	200	8.70	\$6,342,500
Rutherford	53	2.31	\$5,040,000
Hamilton	135	5.87	\$3,883,126
Washington	58	2.52	\$2,687,498
Sullivan	82	3.57	\$2,611,353
Blount	16	0.70	\$2,231,501
Madison	75	3.26	\$2,084,999
Tipton	15	0.65	\$1,800,000

**E. Providers**

TENN. CODE ANN. § 56-54-106(3) requires insuring entities, self-insurers, facilities and providers to report the type and medical specialty (if applicable) of the provider named in the claim. TENN. CODE ANN. § 56-54-103(8) defines “health care provider” or “provider” as a person licensed in either title 63, except chapter 12, or title 68 to provide health care or related services, or an employee or agent of a licensee while acting in the course and scope of the employee’s or agent’s employment. The following tables show statistics for the ten (10) provider types with the highest number of health care liability claims.

**Table 19 – Top Ten (10) Provider Types Ranked by Frequency of Claims During Reporting Year 2011<sup>21</sup>**

Type of Provider	Number of Claims	Percentages of Total Claims	Amounts Paid to Claimants
Medical Doctor	928	39.79	\$37,140,035
Registered Nurse	87	3.73	\$2,211,073
Dentist	56	2.40	\$787,206
Advanced Practice Nurse	34	1.45	\$1,343,750
Nursing Home Administrator	33	1.42	\$3,033,085
Physician Assistant	19	0.81	\$1,000,000
Osteopathic Physician	17	0.73	\$350,000
Pharmacist	16	0.69	\$127,525
Licensed Practical Nurse	15	0.64	\$30,000
Podiatrist	15	0.64	\$650,000
Chiropractic Physician	13	0.56	\$37,424

<sup>21</sup> “Unknown” or “Not Applicable” were the chosen provider types for 1,063 claims. The statistics in Tables 19, 20, and 21 are based on the total amount of claims closed, including companion claims, during the reporting year 2011.

**Table 20 – Top Ten (10) Provider Types Ranked by Amounts in Damages Paid to Claimants During Reporting Year 2011**

<b>Type of Provider</b>	<b>Amounts Paid to Claimants</b>	<b>Number of Claims</b>	<b>Percentages of Total Claims</b>
Medical Doctor	\$37,140,035	928	39.79
Nursing Home Administrator	\$3,033,085	33	1.42
Registered Nurse	\$2,211,073	87	3.73
Advanced Practice Nurse	\$1,343,750	34	1.45
Physician Assistant	\$1,000,000	19	0.81
Dentist	\$787,206	56	2.40
Podiatrist	\$650,000	15	0.64
Osteopathic Physician	\$350,000	17	0.73
Optometrist	\$145,000	3	0.13
Pharmacist	\$127,525	16	0.69

**Table 21 – Top Ten (10) Provider Types Ranked by Damages Paid to Claimants from Inception of Claims Through Reporting Year 2011**

<b>Type of Provider</b>	<b>Amounts Paid to Claimants</b>	<b>Number of Claims</b>	<b>Percentages of Total Claims</b>
Medical Doctor	\$45,780,745	928	39.79
Nursing Home Administrator	\$3,171,585	33	1.42
Registered Nurse	\$3,011,302	87	3.73
Advanced Practice Nurse	\$2,343,750	34	1.45
Physician Assistant	\$1,350,000	19	0.81
Dentist	\$787,206	56	2.40
Podiatrist	\$650,000	15	0.64
Licensed Practical Nurse	\$515,000	15	0.64
Osteopathic Physician	\$480,000	17	0.73
Occupational Therapist	\$270,000	1	0.04

The tables on the following pages show statistics for the ten (10) provider specialty types with the highest alleged incidence of health care liability.

**Table 22 – Top Ten (10) Provider Specialty Types Ranked by Frequency of Claims During Reporting Year 2011<sup>22</sup>**

Type of Specialty	Number of Claims	Percentages of Total Claims	Amounts Paid to Claimants
Family Practice	137	5.87	\$3,662,999
Obstetrics & Gynecology	135	5.78	\$4,303,750
Emergency Medicine	109	4.67	\$4,740,000
Internal Medicine	105	4.50	\$4,707,636
General Surgery	100	4.29	\$5,145,415
General Practice	91	3.96	\$5,216,870
Radiology	86	3.90	\$2,487,136
Orthopedic Surgery	70	3.00	\$2,600,000
Anesthesiology	58	2.49	\$165,000
Cardiovascular Diseases	36	1.54	\$3,120,059

**Table 23 – Top Ten (10) Provider Specialty Types Ranked by Amounts in Damages Paid to Claimants During Reporting Year 2011**

Type of Specialty	Amounts Paid to Claimants	Number of Claims	Percentages of Total Claims
Pediatrics	\$8,720,000	25	1.07
General Practice	\$5,216,870	91	3.96
General Surgery	\$5,145,415	100	4.29
Emergency Medicine	\$4,740,000	109	4.67
Internal Medicine	\$4,707,636	105	4.50
Obstetrics & Gynecology	\$4,303,750	135	5.78
Family Practice	\$3,662,999	137	5.87
Cardiovascular Diseases	\$3,120,059	36	1.54
Orthopedic Surgery	\$2,600,000	70	3.00
Radiology	\$2,487,136	86	3.90

<sup>22</sup> “Unknown”, “Unspecified”, or “Not Applicable” were the chosen provider specialty types for 946 claims. The statistics in Tables 22, 23, and 24 are based on the total amount of claims closed, including companion claims, during the reporting year 2011.

**Table 24 – Top Ten (10) Provider Specialty Types Ranked by Damages Paid to Claimants from Inception of Claims Through Reporting Year 2011**

Type of Specialty	Amounts Paid to Claimants	Number of Claims	Percentages of Total Claims
Pediatrics	\$9,420,000	25	1.07
Family Practice	\$6,357,288	137	5.87
Internal Medicine	\$6,263,099	105	4.50
Emergency Medicine	\$5,899,999	109	4.67
General Surgery	\$5,730,415	100	4.29
General Practice	\$5,328,100	91	3.96
Obstetrics & Gynecology	\$4,981,250	135	5.78
Urology	\$3,720,000	29	1.24
Vascular Surgery	\$3,292,500	27	1.16
Cardiovascular Diseases	\$3,120,059	36	1.54

## **F. Facilities**

TENN. CODE ANN. § 56-54-106(4) requires insuring entities, self-insurers, facilities and providers to report the type of health care facility where the health care liability incident occurred. “Health care facility” or “facility” is defined under TENN. CODE ANN. § 56-54-106(7) as an entity licensed under Title 68 where a health care provider provides health care to patients. The following tables show statistics for the ten (10) health care facility types with the highest alleged incidence of health care liability.

**Table 25 – Top Ten (10) Facility Types Ranked by Frequency of Claims During Reporting Year 2011<sup>23</sup>**

Type of Facility	Number of Claims	Percentages of Total Claims	Amounts Paid to Claimants
Hospital	1516	65.01	\$83,878,988
Office	326	13.98	\$16,533,015
Nursing Home	105	4.50	\$10,656,005
Clinic	83	3.56	\$1,110,613
Ambulatory Surgical Treatment Center	38	1.63	\$385,000
Surgical Facility	17	0.73	\$12,500
Group Residence	16	0.69	\$0
Pharmacy	16	0.69	\$129,325
Home Care Agency	13	0.56	\$558,750
Treatment Facility	12	0.51	\$0
Outpatient Diagnostic Center	10	0.43	\$35,000

<sup>23</sup> “Unknown” and “other” were the chosen health care facility types for 154 claims. The statistics in Tables 25, 26, and 27 are based on the total amount of claims closed, including companion claims, during the reporting year 2011.

**Table 26 – Top Ten (10) Facility Types Ranked by Amounts in Damages Paid to Claimants During Reporting Year 2011**

Type of Facility	Amounts Paid to Claimants	Number of Claims	Percentages of Total Claims
Hospital	\$83,878,988	1516	65.01
Office	\$16,533,015	326	13.98
Nursing Home	\$10,656,005	105	4.50
Clinic	\$1,110,613	83	3.56
Home Care Agency	\$558,750	13	0.56
Ambulatory Surgical Treatment Center	\$385,000	38	1.63
Pharmacy	\$129,325	16	0.69
Counseling Center	\$75,000	5	0.21
Outpatient Diagnostic Center	\$35,000	10	0.43
EMS Vehicle	\$15,000	3	0.13

**Table 27 – Top Ten (10) Facility Types Ranked by Damages Paid to Claimants from Inception of Claim Through Reporting Year 2011**

Type of Facility	Amounts Paid to Claimants	Number of Claims	Percentages of Total Claims
Hospital	\$101,586,326	1516	65.01
Office	\$21,485,480	326	13.98
Nursing Home	\$11,649,477	105	4.50
Clinic	\$1,435,613	83	3.56
Home Care Agency	\$558,890	13	0.56
Ambulatory Surgical Treatment Center	\$385,000	38	1.63
Pharmacy	\$129,515	16	0.69
Hospice	\$100,000	2	0.09
Surgical Facility	\$87,499	17	0.73
Counseling Center	\$75,000	5	0.21

## VI. 2011 DIRECT PREMIUM WRITTEN

The total direct health care liability premium written in 2011 in Tennessee by insurance companies and risk retention groups was \$149,690,000 (One Hundred Forty-nine Million, Six Hundred Ninety Thousand Dollars). This total was determined from their 2011 annual financial statements. This premium was for policies that may produce claim payments of unknown amounts in the future. Claim payments made during 2011 usually relate to policies and the corresponding premium from previous years.

## **VII. NEXT STEPS**

In 2011 the Tennessee General Assembly enacted 2011 Public Acts Ch. 112, effective January 1, 2012. It requires the counsel for claimants' to report, in addition to their fee arrangements, "whether the healthcare provider named in the claim received payment from TennCare for the incident that is subject of the claim." (A copy of 2011 Tenn. Pub. Acts Ch. 112 is attached to this report as Appendix B.)

The Department will work with the insurance industry and the other reporting entities as it relates to their 2013 reporting obligations.

# Appendix A



## State of Tennessee PUBLIC CHAPTER NO. 798

HOUSE BILL NO. 3717

By Representatives McCormick, Elam

Substituted for: Senate Bill No. 3101

By Senators Norris, Ketron

AN ACT to amend Tennessee Code Annotated, Section 7-57-502; Section 8-42-101; Section 8-21-401; Section 9-8-307; Section 10-7-504; Section 28-3-104; Section 29-26-118; Section 29-26-119; Section 29-26-120; Section 29-26-121; Section 29-26-122; Section 29-26-202; Section 29-20-310; Section 29-26-115; Section 29-26-116; Section 29-26-117; Section 37-5-314; Section 56-3-111; Section 56-30-115; Section 56-31-114; Section 56-32-110; Section 56-32-130; Section 56-54-101; Section 56-54-102; Section 56-54-103; Section 56-54-104; Section 56-54-105; Section 56-54-106; Section 56-7-1001; Section 56-7-101; Section 56-7-115; Section 56-8-104; Section 56-13-104; Section 56-19-125; Section 56-2-201; Section 56-27-115; Section 61-1-306; Section 62-3-121; Section 63-25-110; Section 63-27-112; Section 63-3-119; Section 63-30-111; Section 63-31-109; Section 63-4-114; Section 63-5-124; Section 63-51-105; Section 63-51-111; Section 63-51-117; Section 63-6-214; Section 63-6-219; Section 63-6-221; Section 63-6-234; Section 63-8-120; Section 63-9-111; Section 63-9-117; Section 63-11-215; Section 63-12-124; Section 63-13-209; Section 63-23-108; Section 68-140-311; Section 68-140-511 and Section 68-11-223, relative to Tennessee Civil Justice Act of 2011.

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

SECTION 1. Tennessee Code Annotated, Section 7-57-502, is amended by deleting subdivision (b)(7)(A) in its entirety and substituting instead the following:

(A) In connection with any malpractice or health care liability action or proceeding arising out of or in any way connected with such person's professional practice.

SECTION 2. Tennessee Code Annotated, Section 8-21-401, is amended by deleting from subdivision (b)(1)(A) the words "including malpractice and wrongful death suits" and substituting instead the words "including malpractice actions, health care liability actions, and wrongful death suits".

SECTION 3. Tennessee Code Annotated, Section 8-42-101, is amended by deleting from subdivision (3)(B) the word "malpractice" and substituting instead the word "liability".

SECTION 4. Tennessee Code Annotated, Section 9-8-307, is amended by deleting from subdivision (a)(1)(D) the words "legal or medical malpractice" and substituting instead the words "legal malpractice or health care liability".

SECTION 5. Tennessee Code Annotated, Section 10-7-504, is amended by deleting from subdivision (a)(13)(E) the words "malpractice" and substituting instead the words "health care liability".

SECTION 6. Tennessee Code Annotated, Section 29-20-310, is amended by deleting the words "medical malpractice" wherever they appear and substituting instead the words "health care liability".

SECTION 7. Tennessee Code Annotated, Section 29-26-115, is amended by deleting from subsections (a), (c) and (d) the word "malpractice" and substituting instead the words "health care liability".

SECTION 8. Tennessee Code Annotated, Section 29-26-116, is amended by deleting from subdivision (a)(1) the word "malpractice" and substituting instead the words "health care liability".

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SECTION 9. Tennessee Code Annotated, Section 29-26-117, is amended by deleting the words "medical malpractice" and substituting instead the words "health care liability".

SECTION 10. Tennessee Code Annotated, Section 29-26-118, is amended by deleting the word "malpractice" and substituting instead the words "health care liability".

SECTION 11. Tennessee Code Annotated, Section 29-26-119, is amended by deleting the word "malpractice" and substituting instead the words "health care liability".

SECTION 12. Tennessee Code Annotated, Section 29-26-120, is amended by deleting the word "malpractice" and substituting instead the words "health care liability".

SECTION 13. Tennessee Code Annotated, Section 29-26-121, is amended by deleting the words "medical malpractice" wherever they appear and substituting instead the words "health care liability".

SECTION 14. Tennessee Code Annotated, Section 29-26-122, is amended by deleting the words "medical malpractice" wherever they appear and substituting instead the words "health care liability".

SECTION 15. Tennessee Code Annotated, Section 29-26-202, is amended by deleting the word "malpractice" and substituting instead the words "health care liability".

SECTION 16. Tennessee Code Annotated, Section 37-5-314, is amended by deleting the word "malpractice" and substituting instead the word "liability".

SECTION 17. Tennessee Code Annotated, Section 56-2-201, is amended by deleting from subsection (l) the word "malpractice" and substituting instead the words "professional liability".

SECTION 18. Tennessee Code Annotated, Section 56-3-111, is amended by deleting the word "malpractice" wherever it appears and substituting instead the words "health care liability".

SECTION 19. Tennessee Code Annotated, Section 56-7-101, is amended by deleting the word "malpractice" wherever it appears and substituting instead the words "health care liability".

SECTION 20. Tennessee Code Annotated, Section 56-7-115, is amended by deleting from subsections (a) and (b) the word "malpractice" and substituting instead the words "health care".

SECTION 21. Tennessee Code Annotated, Section 56-7-1001, is amended by deleting from subsection (c) the word "malpractice" and substituting instead the words "health care liability".

SECTION 22. Tennessee Code Annotated, Section 56-8-104, is amended by deleting from subdivision (7)(G) the words "medical malpractice" and substituting instead the words "health care liability".

SECTION 23. Tennessee Code Annotated, Section 56-27-115, is amended by deleting the word "malpractice" and substituting instead the words "health care liability".

SECTION 24. Tennessee Code Annotated, Section 56-30-115, is amended by deleting the word "malpractice" and substituting instead the words "health care liability".

SECTION 25. Tennessee Code Annotated, Section 56-31-114, is amended by deleting the word "malpractice" and substituting instead the words "health care liability".

SECTION 26. Tennessee Code Annotated, Section 56-32-130, is amended by deleting from subdivision (b)(1) the words "medical malpractice" and substituting instead the words "health care liability".

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SECTION 27. Tennessee Code Annotated, Section 56-54-101, is amended by deleting the words "medical malpractice" and substituting instead the words "health care liability".

SECTION 28. Tennessee Code Annotated, Section 56-54-102, is amended by deleting the words "medical malpractice" wherever they appear and substituting instead the words "health care liability".

SECTION 29. Tennessee Code Annotated, Section 56-54-103, is amended by deleting the words "medical malpractice" wherever they appear and substituting instead the words "health care liability".

SECTION 30. Tennessee Code Annotated, Section 56-54-104, is amended by deleting the words "medical malpractice claims" and substituting instead the words "health care liability claims" and by deleting the words "medical malpractice liability" and substituting instead the words "health care liability".

SECTION 31. Tennessee Code Annotated, Section 56-54-105, is amended by deleting the words "medical malpractice" wherever they appear and substituting instead the words "health care liability".

SECTION 32. Tennessee Code Annotated, Section 56-54-106, is amended by deleting from subsections (4), (5), (6) and (12) the words "medical malpractice" and substituting instead the words "health care liability".

SECTION 33. Tennessee Code Annotated, Section 56-54-106, is amended by deleting from subsection (8) the word "malpractice" and substituting instead the words "the health care liability".

SECTION 34. Tennessee Code Annotated, Section 63-3-119, is amended by deleting the word "malpractice" wherever it appears and substituting instead the words "health care liability".

SECTION 35. Tennessee Code Annotated, Section 63-4-114, is amended by deleting the word "malpractice" wherever it appears and substituting instead the words "health care liability".

SECTION 36. Tennessee Code Annotated, Section 63-5-124, is amended by deleting the word "malpractice" wherever it appears and substituting instead the words "health care liability".

SECTION 37. Tennessee Code Annotated, Section 63-6-214, is amended by deleting the word "malpractice" wherever it appears and substituting instead the words "health care liability".

SECTION 38. Tennessee Code Annotated, Section 63-6-221, is amended by deleting from subdivision (m)(1)(C) the words "medical malpractice" and substituting instead the words "health care liability".

SECTION 39. Tennessee Code Annotated, Section 63-6-221, is amended by deleting from subsection (s) the word "malpractice" and substituting instead the words "health care liability".

SECTION 40. Tennessee Code Annotated, Section 63-6-234, is amended by deleting from subsection (2) the words "medical malpractice" and substituting instead the words "health care liability".

SECTION 41. Tennessee Code Annotated, Section 63-8-120, is amended by deleting the word "malpractice" wherever it appears and substituting instead the words "health care liability".

SECTION 42. Tennessee Code Annotated, Section 63-9-111, is amended by deleting the word "malpractice" wherever it appears and substituting instead the words "health care liability".

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SECTION 43. Tennessee Code Annotated, Section 63-9-117, is amended by deleting from subdivision (m)(1)(C) the words "medical malpractice" and substituting instead the words "health care liability".

SECTION 44. Tennessee Code Annotated, Section 63-9-117, is amended by deleting from subsection (s) the word "malpractice" and substituting instead the words "health care liability".

SECTION 45. Tennessee Code Annotated, Section 63-11-215, is amended by deleting the word "malpractice" wherever it appears and substituting instead the words "health care liability".

SECTION 46. Tennessee Code Annotated, Section 63-13-209, is amended by deleting the word "malpractice" wherever it appears and substituting instead the words "health care liability".

SECTION 47. Tennessee Code Annotated, Section 63-23-108, is amended by deleting the word "malpractice" wherever it appears and substituting instead the words "health care liability".

SECTION 48. Tennessee Code Annotated, Section 63-25-110, is amended by deleting from subdivision (a)(2) the word "malpractice" and substituting instead the words "health care liability".

SECTION 49. Tennessee Code Annotated, Section 63-27-112, is amended by deleting the word "malpractice" wherever it appears and substituting instead the words "health care liability".

SECTION 50. Tennessee Code Annotated, Section 63-30-111, is amended by deleting the word "malpractice" wherever it appears and substituting instead the words "health care liability".

SECTION 51. Tennessee Code Annotated, Section 63-31-109, is amended by deleting the word "malpractice" wherever it appears and substituting instead the words "health care liability".

SECTION 52. Tennessee Code Annotated, Section 63-51-105, is amended by deleting from subdivision (a)(5)(A) the words "medical malpractice" wherever they appear and substituting instead the words "health care liability".

SECTION 53. Tennessee Code Annotated, Section 63-51-105, is amended by deleting from subdivision (a)(5)(B) the word "malpractice" and substituting instead the words "health care liability".

SECTION 54. Tennessee Code Annotated, Section 63-51-111, is amended by deleting from subdivision (b)(6) the word "malpractice" and substituting instead the words "health care liability".

SECTION 55. Tennessee Code Annotated, Section 63-51-117, is amended by deleting the words "medical malpractice" wherever they appear and substituting instead the words "health care liability".

SECTION 56. Tennessee Code Annotated, Section 68-11-223, is amended by deleting from subdivision (a)(7) the words "medical malpractice" and substituting instead the words "health care liability" and by deleting the words "malpractice suit" and substituting instead the words "health care liability action".

SECTION 57. Tennessee Code Annotated, Section 68-11-223, is amended by deleting from subdivision (b)(1)(A) the words "medical malpractice" and substituting instead the words "health care".

SECTION 58. Tennessee Code Annotated, Section 68-140-311, is amended by deleting the word "malpractice" wherever it appears and substituting instead the words "health care liability".

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SECTION 59. This act shall take effect upon becoming law, the public welfare requiring it.

HOUSE BILL NO. 3717

PASSED: APRIL 9, 2012

  
BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

  
RON RAMSEY  
SPEAKER OF THE SENATE

APPROVED this 23<sup>rd</sup> day of April 2012

  
BILL HASLAM, GOVERNOR



**State of Tennessee**  
**PUBLIC CHAPTER NO. 112**

**SENATE BILL NO. 510**

**By Faulk**

Substituted for: House Bill No. 568

**By Dennis**

AN ACT to amend Tennessee Code Annotated, Title 56, Chapter 54, relative to medical malpractice.

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

SECTION 1. Tennessee Code Annotated, Section 56-54-105, is amended by deleting subsection (c) in its entirety and by substituting instead the following:

(c)(1) Counsel for claimants asserting claims covered by this section shall provide:

(A) Information about fee arrangements to the commissioner. The information shall include the portion of any settlement or judgment received by claimant's counsel; and

(B) Information as to whether the healthcare provider named in the claim received payment from TennCare for the incident that is the subject of the claim.

(2) For the purposes of the levying of civil penalties under § 56-54-109, counsel for claimants who are required to submit the information outlined in this subsection (c) shall be considered reporting entities under this section.

(3) The information provided pursuant to subdivision (c)(1)(B) shall be provided for claims closed or open and pending on or after January 1, 2012.

SECTION 2. Tennessee Code Annotated, Section 56-54-111, is amended by adding the following new language to the end of the section:

The report shall also include information as to whether any healthcare provider named in any claim received payment from TennCare for the incident that is the subject of the respective claim.

SECTION 3. This act shall take effect January 1, 2012, the public welfare requiring it.

SENATE BILL NO. 510

PASSED: April 11, 2011

  
\_\_\_\_\_  
RON RAMSEY  
SPEAKER OF THE SENATE

  
\_\_\_\_\_  
BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 25<sup>th</sup> day of April 2011

  
\_\_\_\_\_  
BILL HASLAM, GOVERNOR