

BILL TEXT:

STATE OF NEW YORK

1407

2005-2006 Regular Sessions

IN ASSEMBLY

January 19, 2005

Introduced by M. of A. DINOWITZ, ENGLEBRIGHT -- Multi-Sponsored by -- M. of A. COOK, L. DIAZ, R. DIAZ -- read once and referred to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to authorizing the court to award treble damages in an action for medical or dental malpractice if the trier of fact concludes that the physician, dentist or other medical professional was under the influence of alcohol or drugs while engaged in negligent conduct

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 3017 of the civil practice law and rules is amended
2 by adding a new subdivision (d) to read as follows:

3 (d) Medical or dental malpractice under the influence of alcohol or
4 drugs. In an action for medical or dental malpractice, treble damages
5 may be demanded if the trier of fact concludes that the physician,
6 dentist or other medical professional was under the influence of alcohol
7 or drugs at the time that he or she engaged in negligent conduct.

8 § 2. This act shall take effect immediately.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD02707-01-5

SPONSORS MEMO:

NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(e)

BILL NUMBER: A1407

SPONSOR: Dinowitz (MS)

TITLE OF BILL: An act to amend the civil practice law and rules, in relation to authorizing the court to award treble damages in an action for medical or dental malpractice if the trier of fact concludes that the physician, dentist or other medical professional was under the influence of alcohol or drugs while engaged in negligent conduct

PURPOSE OR GENERAL IDEA OF BILL: Authorizes the court to award treble damages in an action for medical or dental malpractice if the practitioner was under the influence of drugs or alcohol.

SUMMARY OF SPECIFIC PROVISIONS: Section 1. Section 3017 of the civil practice law and rules is amended by adding a new subdivision (d) to read as follows:

(d) Medical or dental malpractice under the influence of alcohol or drugs. In an action for medical or dental malpractice, treble damages may be demanded if the trier of fact concludes that the physician, dentist or other medical professional was under the influence of alcohol or drugs at the time that he or she engaged in negligent conduct.

JUSTIFICATION: While the vast majority of doctors perform their duties in exemplary fashion, occasionally an instance occurs where a medical professional performs his or her duties under the influence of alcohol or drugs. When this occurs there must be a mechanism for appropriate redress and strong deterrence.

PRIOR LEGISLATIVE HISTORY: 2003-4: A.6414, Referred to Codes

FISCAL IMPLICATIONS: There are no fiscal implications for state and local governments.

EFFECTIVE DATE: This act shall take effect immediately
