1. **Does your jurisdiction maintain a collateral source rule?**

Yes. In a tort action in Ohio, a defendant is barred from introducing evidence of insurance payments to a plaintiff. Under the collateral source rule, if a plaintiff receives benefits from sources other than the wrongdoer, the benefits are irrelevant and immaterial to the plaintiff’s measure of damages. *Robinson v. Bates*, 857 N.E.2d 1195, 1199 (Ohio 2006). The collateral source rule “prevents a jury from learning about a plaintiff’s income from a source other than the tortfeasor so that a tortfeasor is not given an advantage from third-party payments to the plaintiff.” *Id.*; Ohio Revised Code § 2315.20(A).

2. **Does your jurisdiction allow plaintiff recovery for expenses written off by the healthcare provider?**

To prove the value of medical services in Ohio, a plaintiff may submit either a medical bill or evidence of the amount actually paid for medical services. *Robinson*, 857 N.E.2d at 1197. An evidentiary issue can arise when write-offs occur in medical billing. Write-offs are the difference between the original amount reflected on the medical bill and the negotiated amount accepted by healthcare providers as full payment. *Id.* at 1198.

In *Jaques v. Manton*, 928 N.E.2d 434 (Ohio 2010), the Court held that the collateral source statute does not prevent a defendant from introducing evidence of write-offs. *Id.* at 438. The Court reasoned that write-offs are not paid by third parties and evidence of write-offs permit a jury to determine the actual amount of medical expenses incurred as a result of a defendant's tortious conduct. *Id.*

3. **Must a plaintiff prove medical services were reasonable or necessary in order to recover?**

Yes. Proof that medical care was reasonably necessary is part of a claimant's burden to show that the liability event proximately caused the claimed damage. *Wood v. Elzoheary*, 11 Ohio App. 3d 27, 462 N.E.2d 1243 (8th Dist. Cuyahoga County 1983).

Pursuant to well-established Ohio Supreme Court authority set forth in *Moretz, Jaques* and *Robinson*, both the original medical bill rendered and the amount accepted as full payment are admissible to prove the reasonableness and necessity of charges rendered for medical care. The jury is permitted to thereafter decide the “reasonable” amount of damages associated with the
medical care. That amount may either be the amount billed, the amount paid, or some number in between.

Further, pursuant to Ohio law, medical bills are determined to be *prima facie* evidence of the reasonable value of charges for medical services. Litigants need not present expert testimony in order to introduce evidence of the amounts charged, and the amounts paid, within the medical bills. *See, Moretz v. Muakkassa*, 137 Ohio St.3d 171, 998 N.E.2d 479 (2013); *see also*, O.R.C. 2317.421.

4. **Must a Plaintiff guarantee reimbursement payment to a healthcare provider if a judgment is rendered or settlement achieved?**

In the event Plaintiff has health insurance, the right of reimbursement depends on the contract with the health insurance company. Subrogation rights are available under health insurance contracts that expressly provide for it. “It is well settled that an insurer can have a contractual right to subrogation, also called conventional subrogation, which is based upon the contractual obligations of the parties.” *N. Buckeye Edn. Council Grp. Health Benefits Plan v. Lawson*, 154 Ohio App. 3d 659, 663-64, 798 N.E.2d 667, 671 (Ct. App. 2003). The focus of conventional subrogation is the agreement of the parties, which is controlled by contract principles. *Id. See, also, Ervin v. Garner* (1971), 25 Ohio St.2d 231, 240, 267 N.E.2d 769. “Cases of contractual interpretation should not be decided on the basis of what is ‘just’ or equitable even where a party has made a bad bargain, contracted away all his rights, and has been left in the position of doing the work while another may benefit from the work.” *Ervin*, 25 Ohio St.2d at 239–240, 267 N.E.2d 769. Rather, “‘words in a policy must be given their plain and ordinary meaning, and only where a contract of insurance is ambiguous and therefore susceptible [of] more than one meaning must the policy language be liberally construed in favor of the claimant who seeks coverage.’” *Id.*

5. **If an insurance carrier maintains a contractual agreement with a healthcare provider that reduces payments, what can a plaintiff “blackboard” as damages? (i.e., what effect does a pre-existing agreement between an insurance carrier and healthcare provider have on a plaintiff’s ability to recover medical bills?)**

A pre-existing agreement between an insurance carrier and a healthcare provider may have an impact on plaintiff’s ability to admit the full amount of his/her medical bills at trial. Healthcare providers may agree to certain fee schedules with private insurance carriers. A provider then writes-off the difference between the amount charged and the amount received. In either case, a plaintiff is entitled to recover the reasonable value of medical expenses incurred due to the defendant’s conduct. *Robinson*, 857 N.E.2d at 1200. The reasonable value might not be either the amount billed by medical providers or the amount accepted as full payment. *Id.* “Instead, the reasonable value of medical services is a matter for the jury to determine from all relevant evidence. Both the original medical bill rendered and the amount accepted as full payment are admissible to prove the reasonableness and necessity of charges rendered for medical and hospital care.” *Id.*
This section of the Compendium was prepared by an attorney not licensed in the State of Ohio. Although the attorney used his/her best efforts to set forth the current law, users of this section of the Compendium should rely solely on counsel licensed in the State of Ohio.