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INSURANCE LAW BULLETIN

Re: **Court Holds Death By Autoerotic Asphyxiation Is Excluded From Coverage**

On June 11, 2003, the Court of Appeals of Maryland held hypoxia caused by partial strangulation during autoerotic asphyxiation is an intentionally self-inflicted injury within the meaning of an exclusion in an accidental death and dismemberment policy.

The insured died while engaging in an act of autoerotic asphyxiation. The medical examiner ruled asphyxiation as the immediate cause of death and accident as the manner of death. The insurer denied the claim because the death was the result of intentional self-injury, not an accident. The trial court granted summary judgment in favor of the insurer, but Maryland's intermediate appellate court reversed, holding a brief intentional reduction in the flow of oxygen to the brain was not an "injury" within the meaning of the exclusion.

Reversing the intermediate appellate court, the Court of Appeals of Maryland held a "layperson would consider hypoxia caused by partial strangulation to be an injury regardless of whether visible marks were left on the body. That the injured party also derived pleasure from the self-inflicted injury does not mean there was no injury."

For further information, or a copy of the opinion, please contact **Derek B. Yarmis** at 410-659-7762 or dyarmis@fblaw.com. Please visit our website at www.fblaw.com.

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Applicability of the legal principles discussed may differ substantially in individual situations.
The information contained herein should not be construed as individual legal advice.