

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001

A Bill

HOUSE BILL 1119

4
5 By: Representative Womack
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For An Act To Be Entitled

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9 AN ACT TO BE KNOWN AS THE HEALTH CARE COST REDUCTION
10 ACT OF 2001; TO AMEND ARKANSAS CODE 16-114-201 AND 16-
11 114-208; AND FOR OTHER PURPOSES.
12

Subtitle

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14 AN ACT TO BE KNOWN AS THE HEALTH CARE
15 COST REDUCTION ACT OF 2001.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. This act shall be known and may be cited as the "Health Care
21 Cost Reduction Act of 2001."
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23 SECTION 2. It is found and determined by the General Assembly that
24 medical malpractice insurance is a significant cost for health care providers;
25 that the cost of malpractice insurance affects the ability of the citizens of
26 this state to obtain affordable health care; and that reasonable limitations
27 on medical malpractice damages are needed to provide affordable health care.
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29 SECTION 3. Arkansas Code 16-114-201 is amended to read as follows:
30 16-114-201. Definitions.

31 As used in this subchapter, unless the context otherwise requires:

32 (1) "Action for medical injury" means any action against a medical care
33 provider, whether based in tort, contract, or otherwise, to recover damages on
34 account of medical injury;

35 (2) "Compensatory damages" means damages intended to compensate the
36 plaintiff for an actual loss, either economic damages or non-economic damages;

1 (3) "Damages" means compensatory damages and punitive damages;

2 (4) "Economic damages" means medical expenses, lost wages, loss of
3 earning capacity, and other objectively measurable monetary losses;

4 ~~(2)(5)~~ "Medical care provider" means a physician, certified registered
5 nurse anesthetist, physician's assistant, nurse, optometrist, chiropractor,
6 physical therapist, dentist, podiatrist, pharmacist, veterinarian, hospital,
7 nursing home, community mental health center, psychologist, clinic, or not-
8 for-profit home health care agency licensed by the state or otherwise lawfully
9 providing professional medical care or services, or an officer, employee or
10 agent thereof acting in the course and scope of employment in the providing of
11 such medical care or medical services;

12 ~~(3)(6)~~ "Medical injury" or "injury" means any adverse consequences
13 arising out of or sustained in the course of the professional services being
14 rendered by a medical care provider, whether resulting from negligence, error,
15 or omission in the performance of such services; or from rendition of such
16 services without informed consent or in breach of warranty or in violation of
17 contract; or from failure to diagnose; or from premature abandonment of a
18 patient or of a course of treatment; or from failure to properly maintain
19 equipment or appliances necessary to the rendition of such services; or
20 otherwise arising out of or sustained in the course of such services;_

21 (7)(A) "Non-economic damages" means pain, suffering, inconvenience,
22 loss of consortium, mental anguish, and other non-monetary damages intended to
23 compensate the plaintiff;

24 (B) "Non-economic damages" does not include punitive damages; and

25 (8) "Punitive damages" means damages intended to punish the defendant
26 for an act or omission that is either intentional or grossly negligent.

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28 SECTION 4. Arkansas Code 16-114-208 is amended to read as follows:

29 16-114-208. Damage awards - Periodic payment of future damages.

30 (a)~~(1)~~ The damages awarded may include compensation for ~~actual economic~~
31 ~~losses recognized by law~~ damages suffered by the injured person by reason of
32 medical injury including, but not limited to, ~~the cost of reasonable and~~
33 ~~necessary medical services, rehabilitation services, custodial care, loss of~~
34 ~~services, and loss of earnings or earning capacity;~~

35 ~~(2)~~ ~~The damages awarded may include compensation for pain and~~
36 ~~suffering and other noneconomic loss recognized by law;_~~

1 (b) In the event of a verdict for the plaintiff, the finder of fact
2 shall separately state its awards for both past and future economic ~~losses~~
3 damages and for both past and future noneconomic ~~losses;~~ damages.

4 (c)(1) In the event of a judgment for the plaintiff, if the award for
5 future compensatory damages exceeds one hundred thousand dollars (\$100,000)
6 the court may, at the request of either party, order that the future
7 compensatory damages of the injured person exceeding one hundred thousand
8 dollars (\$100,000) be paid in whole, or in part, by periodic payments as
9 determined by the court, rather than by lump sum payment, on such terms as the
10 court deems just and equitable.

11 (2) As a condition to authorizing periodic payments of future
12 compensatory damages, the court may order a judgment debtor who is not
13 adequately insured to post security adequate to assure full payment of such
14 compensatory damages.

15 (3) In the event of the death of the injured person prior to
16 completion of installment payments of principal and interest upon motion of
17 any party in interest, the court shall modify the order by deducting from the
18 remaining balance the amount representing unpaid compensation for future ~~pain~~
19 ~~and suffering and future expenses of care~~ economic damages and non-economic
20 damages and by ordering the remainder to be paid into and become a part of the
21 estate of the decedent.

22 (d)(1) Joint and severable liability shall not apply to punitive
23 damages.

24 (2) Punitive damages shall not exceed the greater of seventy-five
25 thousand dollars (\$75,000) or three (3) times the amount of compensatory
26 damages. Punitive damages shall not be allowed unless more than five hundred
27 dollars (\$500) is awarded for compensatory damages.

28 (3) If punitive damages are sought, the trial shall be bifurcated
29 with the amount of punitive damages determined in a separate phase of the
30 trial after the compensatory damage amount has been established by the finder
31 of fact in the court.

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