

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

As Engrossed: S3/21/13 S3/25/13

# A Bill

SENATE BILL 1162

5 By: Senator J. Dismang  
6

## For An Act To Be Entitled

8 AN ACT TO SUBSUME VARIOUS CAUSES OF ACTION FOR HEALTH  
9 CARE INJURIES AGAINST A MEDICAL CARE PROVIDER UNDER A  
10 SINGLE REMEDY; AND FOR OTHER PURPOSES.

### Subtitle

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14 TO SUBSUME VARIOUS CAUSES OF ACTION FOR  
15 HEALTH CARE INJURIES UNDER A SINGLE  
16 REMEDY.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 SECTION 1. DO NOT CODIFY. Intent – Limitation.

22 (a) This act is intended to ensure that:

23 (1) A person who suffers a medical injury has the opportunity to  
24 seek compensation to return to the state of health that he or she enjoyed  
25 before the medical injury; and

26 (2) For any one (1) medical injury, a person is not compensated  
27 more than once.

28 (b) This act is not intended to affect punitive damages.  
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30 SECTION 2. Arkansas Code § 16-62-102, concerning wrongful death  
31 actions, is amended to add an additional subsection to read as follows:

32 (j) This section does not apply to an action under § 16-114-201 et  
33 seq.  
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35 SECTION 3. Arkansas Code § 16-114-201(1), concerning definitions for  
36 actions for medical injury, is amended to read as follows:



1 (1) "Action for medical injury" means ~~any action~~ all actions  
2 against a medical care provider, whether based in tort, contract, or  
3 otherwise, to recover damages on account of medical injury as defined in §  
4 16-114-201;

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6 SECTION 4. Arkansas Code § 16-114-201(3), concerning definitions for  
7 actions for medical injury, is amended to read as follows:

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

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19 SECTION 5. Arkansas Code Title 16, Chapter 114, Subchapter 2, is  
20 amended to add an additional section to read as follows:

21 16-114-213. Sole remedy.

22 This subchapter is the sole remedy with respect to any action for  
23 medical injury against a medical care provider.

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25 SECTION 6. Arkansas Code § 20-10-1209(a)(1), concerning civil  
26 enforcement for the protection of long-term care facility residents, is  
27 amended to read as follows:

28 (a)(1) Any resident who is injured by a deprivation or infringement of  
29 his or her rights as specified in this subchapter may bring a cause of action  
30 under § 16-114-201 et seq., against any licensee responsible for the  
31 deprivation or infringement.

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33 SECTION 7. Arkansas Code § 20-10-1209, concerning civil enforcement  
34 for the protection of long-term care facility residents, is amended to add an  
35 additional subsection to read as follows:

36 (d)(1) A deprivation or infringement of rights under this subchapter

1 does not itself create an additional cause of action.

2 (2) However, a deprivation or infringement of rights under this  
3 subchapter may be used as evidence of negligence.

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/s/J. Dismang