

HOUSE BILL No. 5662

May 23, 2012, Introduced by Reps. Irwin, Ananich, Lipton, Constan and Oakes and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judiciary act of 1961,"
by amending section 1483 (MCL 600.1483), as amended by 1993 PA 78.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1483. (1) ~~In~~ **EXCEPT AS PROVIDED IN SUBSECTION (3), IN** an
2 action for damages alleging medical malpractice, ~~by or against a~~
3 ~~person or party,~~ the total amount of damages for noneconomic loss
4 recoverable by all plaintiffs, resulting from the negligence of all
5 defendants, shall not exceed \$280,000.00 unless, as the result of
6 the negligence of 1 or more of the defendants, 1 or more of the
7 following exceptions apply as determined by the court pursuant to
8 section 6304, in which case damages for noneconomic loss shall not
9 exceed \$500,000.00:

10 (a) The plaintiff is hemiplegic, paraplegic, or quadriplegic

1 resulting in a total permanent functional loss of 1 or more limbs
2 caused by 1 or more of the following:

3 (i) Injury to the brain.

4 (ii) Injury to the spinal cord.

5 (b) The plaintiff has permanently impaired cognitive capacity
6 rendering him or her incapable of making independent, responsible
7 life decisions and permanently incapable of independently
8 performing the activities of normal, daily living.

9 (c) There has been permanent loss of or damage to a
10 reproductive organ resulting in the inability to procreate.

11 (2) In awarding damages in an action alleging medical
12 malpractice, the trier of fact shall itemize damages into damages
13 for economic loss and damages for noneconomic loss.

14 ~~As used in this section, "noneconomic loss" means damages~~
15 ~~or loss due to pain, suffering, inconvenience, physical impairment,~~
16 ~~physical disfigurement, or other noneconomic loss.~~

17 (3) IN LIEU OF THE LIMITATIONS UNDER SUBSECTION (1), THE TOTAL
18 AMOUNT OF DAMAGES FOR NONECONOMIC LOSS IN AN ACTION ALLEGING
19 MEDICAL MALPRACTICE SHALL NOT EXCEED THE APPLICABLE LIMITATION
20 AMOUNT IN SUBSECTION (1) OR 3 TIMES THE AMOUNT OF THE DAMAGES
21 AWARDED IN THE ACTION FOR ECONOMIC LOSS, WHICHEVER IS GREATER, IF
22 EITHER OF THE FOLLOWING APPLIES:

23 (A) THE DEPARTMENT OF COMMUNITY HEALTH HAS REPORTED TO A
24 DISCIPLINARY SUBCOMMITTEE UNDER SECTION 16221 OF THE PUBLIC HEALTH
25 CODE, 1978 PA 368, MCL 333.16221, FINDINGS THAT 1 OR MORE OF THE
26 FOLLOWING GROUNDS FOR DISCIPLINE OF THE DEFENDANT EXIST:

27 (i) CONVICTION OF A CRIMINAL OFFENSE UNDER SECTIONS 520B TO

1 520G OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520B TO
2 750.520G.

3 (ii) MENTAL OR PHYSICAL INABILITY REASONABLY RELATED TO AND
4 ADVERSELY AFFECTING THE DEFENDANT'S ABILITY TO PRACTICE IN A SAFE
5 AND COMPETENT MANNER.

6 (iii) DECLARATION OF MENTAL INCOMPETENCE OF THE DEFENDANT BY A
7 COURT OF COMPETENT JURISDICTION.

8 (iv) FRAUD OR DECEIT IN OBTAINING OR RENEWING A LICENSE OR
9 REGISTRATION.

10 (v) PROMOTION FOR PERSONAL GAIN OF AN UNNECESSARY DRUG,
11 DEVICE, TREATMENT, PROCEDURE, OR SERVICE.

12 (vi) SUBSTANCE ABUSE AS DEFINED IN SECTION 6107 OF THE PUBLIC
13 HEALTH CODE, 1978 PA 368, MCL 333.6107.

14 (vii) ACTING WITH THE INTENT OF HARMING THE PLAINTIFF.

15 (viii) INTENTIONAL ALTERATION OF RECORDS RELEVANT TO THE ACTION
16 WITH THE INTENT OF AVOIDING LIABILITY.

17 (ix) FAILURE TO DISCLOSE DISCIPLINE IN ANOTHER STATE FOR 1 OR
18 MORE GROUNDS LISTED IN SUBPARAGRAPHS (i) TO (viii) .

19 (B) THE DEFENDANT HAS THREATENED, COERCED, OR ATTEMPTED TO
20 COERCE THE PLAINTIFF OR, IF THE PLAINTIFF IS A MINOR, A PARENT OF
21 THE PLAINTIFF TO PREVENT OR ATTEMPT TO PREVENT THE PLAINTIFF OR
22 PARENT FROM REPORTING MISCONDUCT BY THE DEFENDANT.

23 (4) The state treasurer shall adjust the limitation on damages
24 for noneconomic loss set forth in subsection (1) by an amount
25 determined by the state treasurer at the end of each calendar year
26 to reflect the cumulative annual percentage change in the consumer
27 price index. ~~As used in this subsection, "consumer price index"~~

1 ~~means the most comprehensive index of consumer prices available for~~
2 ~~this state from the bureau of labor statistics of the United States~~
3 ~~department of labor.~~

4 (5) AS USED IN THIS SECTION:

5 (A) "CONSUMER PRICE INDEX" MEANS THE MOST COMPREHENSIVE INDEX
6 OF CONSUMER PRICES AVAILABLE FOR THIS STATE FROM THE BUREAU OF
7 LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR.

8 (B) "NONECONOMIC LOSS" MEANS DAMAGES OR LOSS DUE TO PAIN,
9 SUFFERING, INCONVENIENCE, PHYSICAL IMPAIRMENT, PHYSICAL
10 DISFIGUREMENT, OR OTHER NONECONOMIC LOSS.