

# HOUSE BILL No. 6085

December 6, 2012, Introduced by Rep. Lipton and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled  
"Revised judicature 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 an action for damages alleging medical  
2 malpractice, ~~by or against a person or party,~~ the total amount of  
3 damages for noneconomic loss recoverable by all plaintiffs ~~7~~  
4 resulting from the negligence of all defendants ~~7~~ shall not exceed  
5 \$280,000.00 unless ~~7~~ as the result of the negligence of 1 or more  
6 of the defendants ~~7~~ 1 or more of the following exceptions apply as  
7 determined by the court pursuant to section 6304, in which case  
8 damages for noneconomic loss shall not exceed \$500,000.00:

9       (a) The plaintiff is hemiplegic, paraplegic, or quadriplegic  
10 resulting in a total permanent functional loss of 1 or more limbs

caused by 1 or ~~more~~ **BOTH** of the following:

(i) Injury to the brain.

(ii) Injury to the spinal cord.

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

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

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

~~—— (3) As used in this section, "noneconomic loss" means damages or loss due to pain, suffering, inconvenience, physical impairment, physical disfigurement, or other noneconomic loss.~~

**(3) THE LIMITATIONS IN SUBSECTION (1) DO NOT APPLY TO AN AWARD AGAINST A HEALTH PROFESSIONAL WHO WAS PREVIOUSLY A DEFENDANT IN AN ACTION ALLEGING MEDICAL MALPRACTICE IF 1 OR BOTH OF THE FOLLOWING APPLY:**

**(A) WITHIN 5 YEARS BEFORE THE CONDUCT THAT IS THE SUBJECT OF THE PRESENT ACTION, THE CLAIMS AGAINST THE HEALTH PROFESSIONAL IN THE PREVIOUS ACTION WERE DISMISSED IN EXCHANGE FOR PAYMENT BY OR ON BEHALF OF THE HEALTH PROFESSIONAL OF MORE THAN A NOMINAL AMOUNT.**

**(B) WITHIN 10 YEARS BEFORE THE CONDUCT THAT IS THE SUBJECT OF THE PRESENT ACTION, A JUDGMENT WAS ENTERED AGAINST THE HEALTH PROFESSIONAL IN THE PREVIOUS ACTION.**

(4) The state treasurer shall adjust the ~~limitation~~

1 **LIMITATIONS** on damages for noneconomic loss ~~set forth in subsection~~  
2 (1) by an amount determined by the state treasurer at the end of  
3 each calendar year to reflect the cumulative annual percentage  
4 change in the consumer price index. ~~As used in this subsection,~~  
5 ~~"consumer price index" means the most comprehensive index of~~  
6 ~~consumer prices available for this state from the bureau of labor~~  
7 ~~statistics of the United States department of labor.~~

8 (5) AS USED IN THIS SECTION:

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

12 (B) "NONECONOMIC LOSS" MEANS DAMAGES OR LOSS DUE TO PAIN,  
13 SUFFERING, INCONVENIENCE, PHYSICAL IMPAIRMENT, PHYSICAL  
14 DISFIGUREMENT, OR OTHER NONECONOMIC LOSS.

15 Enacting section 1. This amendatory act applies to an action  
16 pending on or commenced on or after the effective date of this  
17 amendatory act.