

SENATE BILL No. 54

January 31, 1989, Introduced by Senators DE GROW and WELBORN and referred to the Committee on Judiciary.

A bill to amend sections 1483 and 5851 of Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," section 1483 as added and section 5851 as amended by Act No. 178 of the Public Acts of 1986, being sections 600.1483 and 600.5851 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1483 and 5851 of Act No. 236 of the
2 Public Acts of 1961, section 1483 as added and section 5851 as
3 amended by Act No. 178 of the Public Acts of 1986, being sections
4 600.1483 and 600.5851 of the Michigan Compiled Laws, are amended
5 to read as follows:

6 Sec. 1483. (1) In an action for damages alleging medical
7 malpractice against a person or party specified in section 5838a,
8 damages for noneconomic loss ~~which~~ THAT exceeds \$225,000.00

1 shall not be awarded unless 1 or more of the following
2 circumstances exist:

3 ~~(a) There has been a death.~~

4 (A) ~~(b)~~ There has been an intentional tort.

5 (B) ~~(c)~~ A foreign object was wrongfully left in the body
6 of the patient.

7 ~~(d) The injury involves the reproductive system of the~~
8 ~~patient.~~

9 (C) ~~(e)~~ The discovery of the existence of the claim was
10 prevented by the fraudulent conduct of a health care provider.

11 (D) ~~(f)~~ A limb or organ of the patient was wrongfully
12 removed.

13 ~~(g) The patient has lost a vital bodily function.~~

14 (2) In awarding damages in an action alleging medical mal-
15 practice, the trier of fact shall itemize damages into DAMAGES
16 FOR economic LOSS and ~~noneconomic~~ damages FOR NONECONOMIC
17 LOSS.

18 (3) ~~"Noneconomic"~~ AS USED IN THIS SECTION, "NONECONOMIC
19 loss" means damages or loss due to pain, suffering, inconve-
20 nience, physical impairment, physical disfigurement, or other
21 noneconomic loss.

22 (4) The limitation on ~~noneconomic~~ damages FOR NONECONOMIC
23 LOSS set forth in subsection (1) shall be increased by an amount
24 determined by the state treasurer at the end of each calendar
25 year to reflect the cumulative annual percentage increase in the
26 consumer price index. As used in this subsection, "consumer
27 price index" means the most comprehensive index of consumer

1 prices available for this state from the bureau of labor
2 statistics of the United States department of labor.

3 Sec. 5851. (1) Except as otherwise provided in subsection
4 (7), if the person first entitled to make an entry or bring an
5 action is under 18 years of age, insane, or imprisoned at the
6 time the claim accrues, the person or those claiming under the
7 person shall have 1 year after the disability is removed through
8 death or otherwise, to make the entry or bring the action
9 although the period of limitations has run. This section does
10 not lessen the time provided for in section 5852.

11 (2) The term insane as employed in this chapter means a con-
12 dition of mental derangement such as to prevent the sufferer from
13 comprehending rights he or she is otherwise bound to know and is
14 not dependent on whether or not the person has been judicially
15 declared to be insane.

16 (3) To be deemed a disability, the infancy, insanity, or
17 imprisonment must exist at the time the claim accrues. If the
18 disability comes into existence after the claim has accrued, the
19 disability shall not be recognized under this section for the
20 purpose of modifying the period of limitations.

21 (4) Successive disabilities shall not be tacked. That is,
22 only those disabilities which exist at the time the claim first
23 accrues and which disable the person to whom the claim first
24 accrues shall be recognized under this section for the purpose of
25 modifying the period of limitations.

26 (5) All of the disabilities of infancy, insanity, and
27 imprisonment which disable the person to whom the claim first

1 accrues at the time the claim first accrues shall be recognized.
2 That is, the year of grace provided in this section shall be
3 counted from the termination of the last disability to the person
4 to whom the claim originally accrued which has continued from the
5 time the claim accrued, whether this disability terminates
6 because of the death of the person disabled or for some other
7 reason.

8 (6) With respect to a claim accruing before the effective
9 date of the age of majority act of 1971, Act No. 79 of the Public
10 Acts of 1971, being sections 722.51 to 722.55 of the Michigan
11 Compiled Laws, disability of infancy shall be considered removed
12 as of the effective date of Act No. 79 of the Public Acts of
13 1971, as to persons who were at least 18 years of age but less
14 than 21 years of age on January 1, 1972, and shall be considered
15 removed as of the eighteenth birthday of a person who was under
16 18 years of age on January 1, 1972.

17 (7) If, at the time a claim alleging medical malpractice
18 accrues to a person under section 5838a, the person is ~~+3-~~ 6
19 years of age or less, an action based on the claim shall not be
20 brought unless the action is commenced on or before the person's
21 ~~fifteenth-~~ EIGHTH birthday. If, at the time a claim alleging
22 medical malpractice accrues to a person under section 5838a, the
23 person is more than ~~+3-~~ 6 years of age, he or she shall be
24 subject to the period of limitations set forth in section 5838a.