
HOUSE BILL 2835

State of Washington 58th Legislature 2004 Regular Session

By Representatives Schual-Berke and Edwards

Read first time 01/21/2004. Referred to Committee on Judiciary.

1 AN ACT Relating to noneconomic damage awards in actions against
2 health care providers under chapter 7.70 RCW; adding a new section to
3 chapter 7.70 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that there is a crisis
6 in the availability and affordability of professional health care
7 liability insurance coverage. The legislature finds that this
8 malpractice insurance crisis threatens the current and future
9 availability and affordability of health care services for the people
10 of the state of Washington by preventing and discouraging health care
11 providers from initiating or continuing their practice in this state.
12 The legislature further finds that an informed jury may consider that
13 a reasonable limitation on the amount of noneconomic damages that may
14 be awarded in actions against health care providers is necessary to
15 ensure the continued availability and affordability of health care by
16 containing the increasing costs of malpractice insurance for health
17 care providers.

18 Recognizing the authority of the trier of fact in a civil case to
19 determine the issue of damages, the legislature intends by this act to

1 establish an advisory limit on the amount of noneconomic damages that
2 should be awarded in actions against health care providers. The
3 legislature intends that the trier of fact be informed of the
4 limitation on noneconomic damages established in this act and the fact
5 that the limitation on noneconomic damages is advisory and not binding
6 on the trier of fact.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 7.70 RCW
8 to read as follows:

9 (1) The limitation on noneconomic damages contained in subsection
10 (2) of this section is advisory and not binding on the trier of fact.

11 (2)(a) In an action for damages for injury or death occurring as a
12 result of the provision of health care, the amount of noneconomic
13 damages awarded to the claimant should not exceed four hundred thousand
14 dollars. July 1st of each year, beginning July 1, 2005, the
15 administrator for the courts shall adjust the amount specified in this
16 subsection for inflation in accordance with the method established in
17 RCW 2.12.037. The administrator for the courts shall publish the
18 adjusted figure in the Washington state register.

19 (b) The limitation on noneconomic damages in (a) of this subsection
20 should not apply in an action in which the acts or omissions of a
21 defendant were reckless, willful, or wanton.

22 (c) In an action involving more than one defendant where at least
23 one of the defendant's acts or omissions was reckless, willful, or
24 wanton and the noneconomic damage award exceeds four hundred thousand
25 dollars as provided under (b) of this subsection, the responsibility
26 for damages of a defendant whose acts or omissions were not reckless,
27 willful, or wanton should be determined as though that defendant was
28 responsible for his or her proportionate share of a noneconomic damage
29 award of four hundred thousand dollars.

30 (3) The supreme court shall adopt rules governing the process in
31 which the jury is informed of the advisory limitation on noneconomic
32 damages under this section.

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