

HI 330 - DIGEST

Provides that in any action or arbitration for damages for injury or death occurring as a result of health care or related services, or the arranging for the provision of health care or related services, whether brought under chapter 7.70 RCW, RCW 4.20.010, 4.20.020, 4.20.046, 4.20.060, 4.24.010, or 48.43.545(1), any other applicable law, or any combination thereof, that is based upon the alleged wrongful acts or omissions of one or more health care professionals, whether or not those health care professionals are named as defendants, the total combined civil liability for noneconomic damages for all health care professionals, all persons, entities, and health care institutions for whose conduct the health care professionals could be held liable, and all persons, entities, and health care institutions that could be held liable for the conduct of any health care professionals, shall not exceed three hundred fifty thousand dollars for each claimant, regardless of the number of health care professionals, health care providers, or health care institutions against whom the claim for injury or death is or could have been asserted or the number of separate causes of action on which the claim is based.

Provides that an attorney may not contract for or collect a contingency fee for representing a person in connection with an action for damages for injury or death occurring as a result of health care or related services, or the arranging for the provision of health care or related services, in excess of the following limits: (1) Forty percent of the first fifty thousand dollars recovered;

(2) Thirty-three and one-third percent of the next fifty thousand dollars recovered;

(3) Twenty-five percent of the next five hundred thousand dollars recovered;

(4) Fifteen percent of any amount in which the recovery exceeds six hundred thousand dollars.

Declares that the limitations in this provision apply regardless of whether the recovery is by judgment, settlement, arbitration, mediation, or other form of alternative dispute resolution.

Provides that, in no event may an action be commenced more than three years after the act or omission alleged to have caused the injury or condition except: (1) Upon proof of fraud, intentional concealment, or the presence of a foreign body not intended to have a therapeutic or diagnostic purpose or effect, in which case the patient or the patient's representative has one year from the date the patient or the patient's representative or custodial parent or guardian has actual knowledge of the act of fraud or concealment or of the

presence of the foreign body within which to commence a civil action for damages.

(2) In the case of a minor, upon proof that the minor's custodial parent or guardian and the defendant or the defendant's insurer have committed fraud or collusion in the failure to bring an action on behalf of the minor, in which case the patient or the patient's representative has one year from the date the patient or the patient's representative other than the custodial parent or guardian who committed the fraud or collusion has actual knowledge of the fraud or collusion, or one year from the date of the minor's eighteenth birthday, whichever provides a longer period.

(3) In the case of a minor under the full age of six years, in which case the action on behalf of the minor must be commenced within three years, or prior to the minor's eighth birthday, whichever provides a longer period.

Provides that a contract for health care or related services that contains a provision for arbitration of a dispute as to professional negligence of a health care provider as defined in RCW 7.70.020, whether brought under chapter 7.70 RCW, RCW 4.20.010, 4.20.020, 4.20.046, 4.20.060, or 4.24.010, any other applicable law, or any combination thereof, must have the provision as the first article of the contract and the provision must be expressed in the following language:

"It is understood that any dispute as to medical malpractice that is as to whether any health care or related services rendered under this contract were unnecessary or unauthorized or were improperly, negligently, or incompetently rendered, will be determined by submission to arbitration as provided by Washington law, and not by a lawsuit or resort to court process except as Washington law provides for judicial review of arbitration proceedings. Both parties to this contract, by entering into it, are giving up their constitutional right to have such a dispute decided in a court of law before a jury, and instead are accepting the use of arbitration."

Declares that a public or private hospital shall be liable for an act or omission of a health care provider granted privileges to provide health care at the hospital only if the health care provider is an actual agent or employee of the hospital and the act or omission of the health care provider occurred while the health care provider was acting within the course and scope of the health care provider's agency or employment with the hospital.

Declares that a person who is a health care provider under RCW 7.70.020 (1) or (2) shall not be personally liable for any act or omission of any other health care provider who was not the person's actual agent or employee or who was not acting under the person's direct supervision and control at the time of the act or omission.