

CHAPTER 105

COURTS

SENATE BILL 95-165

BY SENATOR Schroeder;
also REPRESENTATIVES Schauer and Lawrence.

AN ACT

**CONCERNING INCLUSION OF ANY INTEREST ON MEDICAL MALPRACTICE DAMAGES IN THE
LIMITATIONS ON LIABILITY THAT ARE APPLICABLE TO MEDICAL MALPRACTICE CLAIMS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 13-64-302, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

13-64-302. Limitation of liability - interest on damages. (1) The total amount recoverable for all damages for a course of care for all defendants in any civil action for damages in tort brought against a health care professional, as defined in section 13-64-202, or a health care institution, as defined in section 13-64-202, or as a result of binding arbitration, whether past damages, future damages, or a combination of both, shall not exceed one million dollars, present value per patient, including any derivative claim by any other claimant, of which not more than two hundred fifty thousand dollars, present value per patient, including any derivative claim by any other claimant, shall be attributable to noneconomic loss or injury, as defined in section 13-21-102.5 (2) (a) and (2) (b), whether past damages, future damages, or a combination of both; except that if, upon good cause shown, the court determines that the present value of the amount of lost past earnings and the present value of lost future earnings, or the present value of the amount of past medical and other health care costs and the present value of the amount of future medical and other health care costs, or both, when added to the present value of other past damages and the present value of other future damages, would exceed such limitation and that the application of such limitation would be unfair, the court may award the present value of additional future damages only for loss of such excess future earnings, or such excess future medical and other health care costs, or both. The limitations of this section are not applicable to a health care professional who is a public employee under the "Colorado Governmental Immunity Act" and are not applicable to a certified health

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

care institution which is a public entity under the "Colorado Governmental Immunity Act". For purposes of this section, "present value" has the same meaning as that set forth in section 13-64-202 (7). The existence of the limitations and exceptions thereto provided in this section shall not be disclosed to a jury.

(2) IN ANY CIVIL ACTION DESCRIBED IN SUBSECTION (1) OF THIS SECTION, PREJUDGMENT INTEREST AWARDED PURSUANT TO SECTION 13-21-101 THAT ACCRUES DURING THE TIME PERIOD BEGINNING ON THE DATE THE ACTION ACCRUED AND ENDING ON THE DATE OF FILING OF THE CIVIL ACTION IS DEEMED TO BE A PART OF THE DAMAGES AWARDED IN THE ACTION FOR THE PURPOSES OF THIS SECTION AND IS INCLUDED WITHIN EACH OF THE LIMITATIONS ON LIABILITY THAT ARE ESTABLISHED PURSUANT TO SUBSECTION (1) OF THIS SECTION.

SECTION 2. Effective date - applicability. This act shall take effect July 1, 1995, and shall apply to any action filed on or after said date.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 21, 1995