

CHAPTER 165

COURTS

SENATE BILL 04-166

BY SENATOR(S) Lamborn, Anderson, Groff, Grossman, and Veiga;
also REPRESENTATIVE(S) Stengel, Hoppe, Schultheis, Sinclair, and Spradley.

AN ACT

CONCERNING A ONE-TIME ADJUSTMENT FOR INFLATION TO THE ONE-MILLION-DOLLAR DAMAGES LIMITATION CONTAINED IN THE STATUTE GOVERNING MEDICAL NEGLIGENCE RECOVERY IN ACCORDANCE WITH THE CONSUMER PRICE INDEX OF THE UNITED STATES BUREAU OF LABOR STATISTICS.

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

SECTION 1. Legislative declaration. The general assembly hereby finds, determines, and declares that the provisions of this act affect the operation of section 13-64-302 (1) (a) (I), (1) (a) (II) (A), and (1) (b), Colorado Revised Statutes. It is not the intent of the general assembly that the provisions of this act affect either the effective date or operation of section 13-64-302 (1) (c), Colorado Revised Statutes.

SECTION 2. 13-64-302 (1) (a) (I), (1) (a) (II) (A), and (1) (b), Colorado Revised Statutes, are amended to read:

13-64-302. Limitation of liability - interest on damages. (1) (a) As used in this section:

(I) "Derivative noneconomic loss or injury" means noneconomic loss or injury to persons other than the person suffering the direct or primary loss or injury. "DERIVATIVE NONECONOMIC LOSS OR INJURY" DOES NOT INCLUDE PUNITIVE OR EXEMPLARY DAMAGES.

(II) (A) "DIRECT noneconomic loss or injury" means nonpecuniary harm for which damages are recoverable by the person suffering the direct or primary loss or injury, including pain and suffering, inconvenience, emotional stress, physical impairment or disfigurement, and impairment of the quality of life. "DIRECT noneconomic loss or injury" does not include punitive or exemplary damages.

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

(b) 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 claim for derivative noneconomic loss or injury, ~~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 DIRECT OR DERIVATIVE noneconomic loss or injury; ~~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, PAST AND FUTURE ECONOMIC DAMAGES would exceed such limitation and that the application of such limitation would be unfair, the court may award IN EXCESS OF THE LIMITATION the present value of additional PAST AND future ECONOMIC 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 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.

SECTION 3. Effective date - applicability. This act shall take effect January 1, 2005, and shall apply to acts or omissions occurring on or after said date.

SECTION 4. 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 20, 2004