

House Bill 3228

Sponsored by Representative THOMPSON; Representative WEIDNER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Limits noneconomic damages in claims against health care providers based on provision of medical care or failure to provide medical care. Provides that limit is \$500,000 for claims arising in calendar year 2011. Provides for adjustment based on cost of living in subsequent calendar years.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to noneconomic damages; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) In any personal injury action against a health care provider based on the**
5 **provision of medical care or the failure to provide medical care, a plaintiff may not recover**
6 **noneconomic damages in an amount that exceeds the limitation imposed under subsection**
7 **(2) of this section for all claims arising from personal injury to any one patient regardless**
8 **of the number of health care providers against whom the claim is asserted, or the number**
9 **of separate claims brought with respect to the injury. The limitation imposed by this section**
10 **applies to actions brought by injured patients, actions brought by the legal representatives**
11 **of patients and actions brought by persons claiming loss of consortium or loss of care,**
12 **comfort, companionship or society.**

13 (2) The limitation on noneconomic damages imposed under this section for claims arising
14 in calendar year 2011 is \$500,000. Not later than February 1 of each calendar year after 2011,
15 the State Court Administrator shall adjust the limitation based on the immediately preceding
16 December monthly Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers
17 Not Seasonally Adjusted, as published by the Bureau of Labor Statistics of the United States
18 Department of Labor. The adjusted limitation applies to all claims arising in the calendar
19 year in which the adjustment is made.

20 (3) The limitation imposed by this section applies to all subjective nonmonetary losses
21 suffered by the plaintiff, including but not limited to pain, mental suffering, emotional dis-
22 tress, loss of care, comfort, companionship and society, loss of consortium, inconvenience
23 and interference with normal and usual activities apart from gainful employment.

24 (4) The limitation on noneconomic damages imposed by this section applies only to a
25 health care provider acting within the scope of the health care provider's license.

26 (5) The limitation on noneconomic damages imposed by this section does not apply to
27 claims based on intentional injury.

28 (6) As used in this section, "health care provider" means:

29 (a) A health practitioner, as described in ORS 31.740; and

30 (b) A health care facility, as defined in ORS 442.015.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **SECTION 2.** Section 1 of this 2011 Act applies only to causes of action arising on or after
2 the effective date of this 2011 Act.

3 **SECTION 3.** This 2011 Act being necessary for the immediate preservation of the public
4 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
5 on its passage.
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