

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1289

By: Greenwood

AS INTRODUCED

An Act relating to damages; limiting noneconomic damages against health care providers; defining terms; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 104 of Title 23, unless there is created a duplication in numbering, reads as follows:

A. In any action against a health care provider for damages for personal injury or death arising out of the rendering of or the failure to render health care services, no plaintiff shall recover more than Three Hundred Fifty Thousand Dollars (\$350,000.00) per occurrence for noneconomic damages from any one defendant, except as otherwise provided in the Governmental Tort Claims Act.

B. As used in this section:

1. "Defendant" means:

a. a hospital not subject to the Governmental Tort Claims Act and as otherwise defined in Section 1-701 of Title 63 of the Oklahoma Statutes and its employees and physician employees who are insured under the hospital's professional liability insurance policy or

the hospital's self-insurance maintained for professional liability purposes,

- b. a physician, including his nonphysician employees who are insured under the physician's professional liability insurance or under the physician's self-insurance maintained for professional liability purposes, or
- c. any other health care provider having the legal capacity to sue and be sued and who is not included in subparagraph a or b of this paragraph, including employees of any health care providers who are insured under the health care provider's professional liability insurance policy or self-insurance maintained for professional liability purposes;

2. "Health care provider" means any physician, hospital, ambulatory surgical center, long-term care facility, dentist, registered or licensed practical nurse, optometrist, podiatrist, pharmacist, chiropractor, professional physical therapist, psychologist, resident physician, and any other person or entity that provides health care services under the authority of a license or certificate;

3. "Health care services" means any services that a health care provider renders to a patient in the ordinary course of the health care provider's profession or, if the health care provider is an institution, in the ordinary course of furthering the purposes for which the institution is organized. Professional services shall include, but are not limited to, transfer to a patient of goods or services incidental or pursuant to the practice of the health care provider's profession or in furtherance of the purposes for which an institutional health care provider is organized;

4. "Noneconomic damages" means damages arising from nonpecuniary harm including, without limitation, pain, suffering,

mental anguish, inconvenience, physical impairment, disfigurement, loss of capacity to enjoy life, and loss of consortium, but shall not include exemplary damages;

5. "Physician employee" means any person or entity who works for hospitals for a salary or under contract and who is covered by a policy of insurance or self-insurance by a hospital for acts performed at the direction or under control of the hospital; and

6. "Self-insurance" means a formal or informal plan of self-insurance or no insurance of any kind.

SECTION 2. This act shall become effective September 1, 1993.

44-1-5922

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