

CHAPTER 4

DAMAGE AWARDS AGAINST HEALTH CARE PROVIDERS — MEDICAL ERROR TASK FORCE

H.F. 161

AN ACT relating to damage awards against health care providers, creating a medical error task force, and including effective date and applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I DAMAGE AWARDS AGAINST HEALTH CARE PROVIDERS

Section 1. [Section 147.136A, subsection 1](#), paragraph b, Code 2023, is amended to read as follows:

b. (1) “Noneconomic damages” means damages arising from pain, suffering, inconvenience, physical impairment, mental anguish, emotional pain and suffering, loss of chance, loss of consortium, or any other nonpecuniary damages.

(2) “Noneconomic damages” does not include the loss of dependent care, including the loss of child care, due to the death of or severe injury to a spouse or parent who is the primary caregiver of a child under the age of eighteen or a disabled adult. Such damages shall be considered economic damages.

Sec. 2. [Section 147.136A, subsection 2](#), Code 2023, is amended to read as follows:

2. ~~The Subject to [subsection 4](#), the total amount recoverable in any civil action for noneconomic damages for personal injury or death, whether in tort, contract, or otherwise, against a health care provider shall be limited to two hundred fifty thousand dollars for any occurrence resulting in injury or death of a patient regardless of the number of plaintiffs, derivative claims, theories of liability, or defendants in the civil action, shall not exceed two hundred fifty thousand dollars unless the jury determines that there is a substantial or permanent loss or impairment of a bodily function, substantial disfigurement, loss of pregnancy, or death, which warrants a finding that imposition of such a limitation would deprive the plaintiff of just compensation for the injuries sustained, in which case the amount recoverable shall not exceed one million dollars, or two million dollars if the civil action includes a hospital as defined in [section 135B.1](#).~~

Sec. 3. [Section 147.136A](#), Code 2023, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The limitations on damages contained in [subsection 2](#) shall increase by two and one-tenth percent on January 1, 2028, and each January 1 thereafter. In any civil action described in [this section](#), such limitations on damages shall be the amount effective at the time of the occurrence. The commissioner of insurance shall publish the amount of the limitations on damages contained in [this section](#) on the insurance division’s internet site and shall update the published amount annually.

Sec. 4. [Section 668A.1, subsection 2](#), paragraphs a and b, Code 2023, are amended to read as follows:

a. If the answer or finding pursuant to [subsection 1](#), paragraph “b”, is affirmative, or if the claim is against any physician and surgeon, osteopathic physician and surgeon, dentist, podiatric physician, optometrist, pharmacist, chiropractor, physician assistant, or nurse, licensed under [chapter 147](#), or a hospital licensed under [chapter 135B](#), arising out of patient care, then the full amount of the punitive or exemplary damages awarded shall be paid to the claimant.

b. If the answer or finding pursuant to [subsection 1](#), paragraph “b”, is negative, and if the claim is not against any physician and surgeon, osteopathic physician and surgeon, dentist, podiatric physician, optometrist, pharmacist, chiropractor, physician assistant, or nurse, licensed under [chapter 147](#), or a hospital licensed under [chapter 135B](#), arising out of patient care, then after payment of all applicable costs and fees, an amount not to exceed twenty-five percent of the punitive or exemplary damages awarded may be ordered paid to

the claimant, with the remainder of the award to be ordered paid into a civil reparations trust fund administered by the state court administrator. Funds placed in the civil reparations trust shall be under the control and supervision of the executive council, and shall be disbursed only for purposes of indigent civil litigation programs or insurance assistance programs.¹

Sec. 5. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 6. APPLICABILITY. This division of this Act applies to causes of action accrued on or after the effective date of this division of this Act.

DIVISION II MEDICAL ERROR TASK FORCE

Sec. 7. MEDICAL ERROR TASK FORCE.

1. The department of health and human services shall convene a task force to review medical error rates of licensed physicians in this state and shall make recommendations to the general assembly and the director of health and human services including recommendations that address options for reducing medical error rates, improvements in education and training to minimize medical errors, and whether applicable penalties for medical errors and physician licensure review measures are sufficient.

2. a. The task force shall include all of the following voting members:

(1) The director of health and human services, or the director's designee.

(2) The director of inspections and appeals, or the director's designee.

(3) The executive director of the board of medicine.

(4) The ombudsman.

(5) A representative of the Iowa medical society.

(6) A representative of the board of regents affiliated with the university of Iowa hospitals and clinics.

(7) The commissioner of insurance, or the commissioner's designee.

(8) The attorney general, or the attorney general's designee.

b. The task force shall also include four members of the general assembly serving as ex officio, nonvoting members, one representative to be appointed by the speaker of the house of representatives, one representative to be appointed by the minority leader of the house of representatives, one senator to be appointed by the president of the senate after consultation with the majority leader of the senate, and one senator to be appointed by the minority leader of the senate.

c. The director of health and human services, or the director's designee, may add members to the task force as necessary to complete the work of the task force.

3. The department of health and human services shall provide administrative support to the task force. The director of health and human services, or the director's designee, shall serve as chairperson of the task force, and shall schedule meetings of the task force as necessary to complete the work of the task force.

4. The task force shall dissolve upon submission of the report to the general assembly and the director of health and human services, but no later than January 8, 2024.

Approved February 16, 2023

¹ See chapter 84, §3 herein