

147.136A Noneconomic damage awards against health care providers.

1. For purposes of this section:

a. “*Health care provider*” means a hospital as defined in [section 135B.1](#), a health care facility as defined in [section 135C.1](#), a health facility as defined in [section 135P.1](#), a physician or an osteopathic physician licensed under [chapter 148](#), a physician assistant licensed under [chapter 148C](#), a podiatrist licensed under [chapter 149](#), a chiropractor licensed under [chapter 151](#), a licensed practical nurse, a registered nurse, or an advanced registered nurse practitioner licensed under [chapter 152](#) or [152E](#), a dentist licensed under [chapter 153](#), an optometrist licensed under [chapter 154](#), a pharmacist licensed under [chapter 155A](#), a professional corporation under [chapter 496C](#) that is owned by persons licensed to practice a profession listed in this paragraph, or any other person or entity who is licensed, certified, or otherwise authorized or permitted by the law of this state to administer health care in the ordinary course of business or in the practice of a profession.

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.

c. “*Occurrence*” means the event, incident, or happening, and the acts or omissions incident thereto, which proximately caused injuries or damages for which recovery is claimed by the patient or the patient’s representative.

2. 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 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](#).

3. The limitation on damages contained in [this section](#) shall not apply as to a defendant if that defendant’s actions constituted actual malice.

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.

2017 Acts, ch 107, §2, 5; 2018 Acts, ch 1041, §46; 2023 Acts, ch 4, §1 – 3, 5, 6; 2023 Acts, ch 73, §7

Referred to in §147.139, 147.140

Section applies to causes of action that accrue on or after July 1, 2017; **2017 Acts, ch 107, §5**

2023 amendments to subsection 1, paragraph b, subsection 2, and new subsection 4, by 2023 Acts, ch 4, apply to causes of action accrued on or after February 16, 2023; 2023 Acts, ch 4, §6