



[SF 148](#) — Medical Malpractice, Noneconomic Damages (LSB1583SV)
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Fiscal Note Version — New

Description

[Senate File 148](#) relates to noneconomic damage awards against health care providers. The Bill limits the noneconomic damages that a jury can award a plaintiff if there is a substantial or permanent loss or impairment of a bodily function, substantial disfigurement, or death to \$1.0 million. The Bill provides that damages for loss of dependent care due to the death or severe injury to a spouse or parent who is the primary caregiver are considered economic damages.

The Bill provides for an annual 2.1% increase to the \$250,000 cap under current law and to the \$1.0 million cap under the Bill beginning on January 1, 2028. The Commissioner of Insurance is required to publish and update the amount of the limitations on damages on the Insurance Division's Internet site annually.

The Bill takes effect upon enactment and applies to occurrences on or after that date.

Background

Iowa Code section [147.136A](#)(b) defines "noneconomic damages" as 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. Under current law, the total amount recoverable in any civil action for noneconomic damages for personal injury or death against a health care provider is limited to \$250,000 unless the jury determines that there is a substantial or permanent loss or impairment of a bodily function, substantial disfigurement, or death, which may result in a higher award. The limitation on damages under the current law does not apply if the defendant's actions constituted actual malice.

Iowa Code chapter [25](#) specifies that when a claim is filed against the State, the claim is referred to the State Appeal Board for consideration of payment. The State Appeal Board considers all monetary claims that involve property damage, personal injury, or wrongful death. The Board makes a recommendation regarding payment, denial, or dismissal for each claim.

A settlement or claim against the University of Iowa Hospitals and Clinics faculty for actions that occur within the scope of their employment is paid from two sources. Up to \$5.0 million per occurrence and \$9.0 million annual aggregate is paid from the University of Iowa Physicians or Iowa Medical Mutual Insurance Company. Anything above that limit is paid from the State General Fund through the State Appeal Board. For the liability of other University of Iowa Hospitals and Clinics employees acting within the scope of their employment, the claim or settlement is paid by the State of Iowa from the General Fund. In each case, the State of Iowa and University of Iowa agree on an appropriate allocation.

The University of Iowa Hospitals and Clinics includes the main adult care hospital, a specialized disabilities and development outpatient facility (serving pediatric and adult patients), and the

University of Iowa Stead Family Children’s Hospital. In addition, outpatient clinic facilities are located in the State’s population centers such as Waterloo, Des Moines, and Cedar Rapids.

According to the Judicial Branch, the total number filings for all case types over the last five years has averaged 666,000 per year. Medical malpractice filings are a small percentage of total case filings in the Iowa court system. Medical malpractice filings for calendar year (CY) 2017 through CY 2022 averaged 160 per year. Approximately 8.0% of medical malpractice case dispositions were by jury trial over that same time period.

According to the University of Iowa Hospitals and Clinics, in the last three fiscal years, the State of Iowa paid the following amounts in medical malpractice case resolutions. These totals include both economic damages and noneconomic damages.

- FY 2020: \$16.8 million
- FY 2021: \$12.6 million
- FY 2022: \$17.6 million

Assumptions

- The impact of the Bill on the behavior of plaintiffs and defendants is unknown.
- Medical malpractice suit filings will continue to be a small percentage of total case filings in the Iowa court system. It is estimated that approximately 13 cases will be disposed by jury trial.
- A portion of the award for a successful claim brought against a member of the University of Iowa Hospitals and Clinics will continue to be paid by the University of Iowa Physicians or Iowa Medical Mutual Insurance Company, and the remainder will be paid by the State General Fund.

Fiscal Impact

Senate File 148 may reduce future settlements paid by the State Appeal Board from the General Fund and by the University of Iowa Hospitals and Clinics. However, the extent of this decrease cannot be estimated. Any fiscal impact to the Judicial Branch cannot be estimated.

Sources

Board of Regents
Judicial Branch
Department of Health and Human Services

/s/ Jennifer Acton

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The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
