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[HF 161](#) – Medical Malpractice, Noneconomic Damages (LSB1101HV.1)  
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Fiscal Note Version – Final Action

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## **Description**

[House File 161](#) relates to noneconomic damage awards against health care providers and is divided into two divisions.

Division I of 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, loss of pregnancy, or death to \$1.0 million, or \$2.0 million if the civil action includes a hospital. The Bill provides that damages for loss of dependent care due to the death of or severe injury to a spouse or parent who is the primary caregiver are considered economic damages. The Bill also makes modifications to when punitive or exemplary damages are awarded.

The Bill provides for an annual 2.1% increase to the \$250,000 cap under current law and to the \$1.0 million or \$2.0 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.

Division I of the Bill takes effect upon enactment and applies to occurrences on or after that date.

Division II creates a Medical Error Task Force to review medical error rates of licensed physicians in this State. The Task Force must make recommendations to the General Assembly and the Director of the Department of Health and Human Services (HHS). The recommendations must identify 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.

## **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 of 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 per year 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.
- The creation of a task force may result in increased workload and require the HHS to hire independent contractors.

### **Fiscal Impact**

House File 161 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.

The fiscal impact to the HHS for the Medical Error Task Force is unknown. However, based on previous contractual arrangements for similar purposes, the HHS may incur costs totaling up to \$200,000.

### **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.

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