

JAN 12 1995
JUDICIARY

HOUSE FILE 31
BY RENKEN

WITHDRAWN
3-27-95 (p 996)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to medical malpractice by establishing a limit on
2 noneconomic damages, establishing practice parameters, and
3 amending the statute of limitations with respect to minors.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 147.140 LIMITATION ON
2 NONECONOMIC DAMAGES.

3 In a medical malpractice action in which liability is
4 admitted or established, the present value of the damages
5 awarded for noneconomic losses incurred or to be incurred in
6 the future by the plaintiff by reason of personal injury or
7 death shall not exceed two hundred fifty thousand dollars.

8 Sec. 2. NEW SECTION. 147.141 PRACTICE PARAMETERS --
9 DEFENSE.

10 1. As used in this section "practice parameters" means
11 scientifically based medical practice guidelines articulating
12 the appropriate standard of care for a particular diagnosis
13 which are recognized and approved by the federal agency for
14 health care policy and research, by a national medical
15 society, or by a nationally recognized medical specialty
16 society.

17 2. The board of medical examiners shall approve for use in
18 this state practice parameters which have been determined to
19 be scientifically and clinically sound. The board shall
20 publish a listing of currently approved practice parameters on
21 a quarterly basis as a notice in the Iowa administrative
22 bulletin. The notice shall separately list previously
23 approved practice parameters which have been withdrawn or
24 superceded since the previous publication.

25 3. In any action for personal injury or wrongful death
26 against a physician and surgeon, osteopath, or osteopathic
27 physician and surgeon licensed by the board of medical
28 examiners, or against a hospital licensed under chapter 135B,
29 based upon the alleged negligence of the licensee in the
30 practice of the licensee's profession or upon the alleged
31 negligence of the hospital in patient care, adherence to a
32 practice parameter adopted by the board of medical examiners
33 shall be an absolute defense against an allegation that the
34 provider did not comply with the appropriate standard of care.

35 4. Evidence of a departure from a practice parameter is

1 admissible only on the issue of whether the provider is
2 entitled to the absolute defense granted under subsection 3.

3 5. The defense created in this section is applicable to
4 claims arising after the adoption of the applicable practice
5 parameter.

6 6. This section shall not be construed to modify the
7 standard or burden of proof in an action alleging a delay in
8 diagnosis, a misdiagnosis, an inappropriate application of a
9 practice parameter, failure to obtain informed consent,
10 battery or other intentional tort, or product liability.

11 Sec. 3. Section 614.8, Code 1995, is amended to read as
12 follows:

13 614.8 MINORS AND MENTALLY ILL PERSONS.

14 The Except for actions brought for medical malpractice, the
15 times limited for actions herein, except those brought for
16 penalties and forfeitures, ~~shall be~~ are extended in favor of
17 minors and mentally ill persons, so that they ~~shall~~ have one
18 year from and after the termination of ~~such the~~ the disability
19 within which to commence ~~said an~~ an action. The times limited
20 for actions brought for medical malpractice are extended in
21 favor of minors less than six years of age so that they have
22 until their eighth birthday to commence an action.

23 EXPLANATION

24 This bill creates new section 147.140 which establishes a
25 limitation on noneconomic damages in a medical malpractice
26 action of \$250,000. The bill creates new section 147.141
27 which provides for the approval of practice parameters as
28 guidelines for physicians and surgeons, osteopaths and
29 osteopathic physicians and surgeons, and for hospitals. In an
30 action for personal injury or wrongful death against such
31 covered providers, adherence to such parameters is an absolute
32 defense against an allegation that the provider did not comply
33 with the appropriate standard of care. The section provides
34 that evidence of a departure from a practice parameter is
35 admissible only on the issue of whether the provider is

1 entitled to the absolute defense provided for in this section.

2 Section 614.8 is amended to provide that a minor less than

3 six years of age has until the minor's eighth birthday to

4 bring an action for medical malpractice.

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