

Withdrawn

4/12/04

FILED MAR 03 '04

SENATE FILE 2236
BY COMMITTEE ON BUSINESS
AND LABOR RELATIONS

(SUCCESSOR TO SSB 3114)

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

A BILL FOR

1 An Act relating to awards of noneconomic damages against health
2 care providers.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SENATE FILE 2236

S-5141

- 1 Amend Senate File 2236 as follows:
- 2 1. Page 1, line 8, by inserting after the figure
- 3 "135.1," the following: "an advanced registered nurse
- 4 practitioner licensed pursuant to chapter 152,".
- 5 2. By renumbering as necessary.

By DAVID JOHNSON

S-5141 FILED MARCH 24, 2004

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SF 2236
BUSINESS & LABOR

1 Section 1. NEW SECTION. 668B.1 TITLE.

2 This chapter may be cited as the "Noneconomic Damage Awards
3 Against Health Care Providers Act".

4 Sec. 2. NEW SECTION. 668B.2 DEFINITIONS.

5 As used in this chapter, unless the context otherwise
6 requires:

7 1. "Health care provider" means a physician as defined in
8 section 135.1, a hospital as defined in section 135B.1, and a
9 health care facility as defined in section 135C.1.

10 2. "Health care services" means services that involve
11 diagnosis, treatment, medical evaluation, advice, or such acts
12 as may be permissible under the health care licensing statutes
13 of this state.

14 3. "Noneconomic damages" means damages arising from pain,
15 suffering, inconvenience, physical impairment, mental anguish,
16 emotional pain and suffering, loss of chance, loss of
17 consortium, and any other nonpecuniary damages.

18 Sec. 3. NEW SECTION. 668B.3 DAMAGE AWARDS.

19 In any action for damages for injury or death against any
20 health care provider, whether based in tort, contract, or
21 otherwise, arising out of an act or omission in connection
22 with the provision of health care services, the injured
23 plaintiff shall be entitled to recover noneconomic damages,
24 but such damages shall not exceed two hundred fifty thousand
25 dollars, except upon a finding of actual malice on the part of
26 the defendant.

27 EXPLANATION

28 This bill creates the noneconomic damage awards against
29 health care providers Act.

30 The bill provides that in any action for noneconomic
31 damages for injury or death against any health care provider
32 whether based in tort, contract, or otherwise, arising out of
33 an act or omission in connection with the provision of health
34 care services, the injured plaintiff shall be entitled to
35 recover noneconomic damages not to exceed \$250,000, except

1 upon a finding of actual malice on the part of the defendant.

2 "Noneconomic damages" is defined as damages arising from
3 pain, suffering, inconvenience, physical impairment, mental
4 anguish, emotional pain and suffering, loss of chance, loss of
5 consortium, and any other nonpecuniary damages.

6 "Health care provider" means a physician defined as a
7 person licensed to practice medicine and surgery, osteopathic
8 medicine and surgery, osteopathy, chiropractic, podiatry, or
9 optometry under the laws of this state pursuant to Code
10 section 135.1, a hospital defined as a place which is devoted
11 primarily to the maintenance and operation of facilities for
12 the medical diagnosis, treatment, or care over a period
13 exceeding 24 hours of two or more nonrelated individuals
14 pursuant to Code section 135B.1, and a health care facility
15 defined as a residential care facility, a nursing facility, an
16 intermediate care facility for persons with mental illness, or
17 an intermediate care facility for persons with mental
18 retardation pursuant to Code section 135C.1.

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Johnson
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Horn

SSB#3114
Business & Labor

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
BUSINESS AND LABOR
RELATIONS BILL BY
CHAIRPERSON SCHUERER)
Succeeded By
SI HF 2236

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

A BILL FOR

1 An Act concerning a monetary limit on an award of punitive or
2 exemplary damages in a medical malpractice action.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 147.141 LIMITATION ON PUNITIVE
2 OR EXEMPLARY DAMAGES.

3 In an action for personal injury or wrongful death against
4 a physician and surgeon, osteopath, osteopathic physician and
5 surgeon, dentist, podiatrist, optometrist, pharmacist,
6 chiropractor, or nurse licensed under this chapter, based on
7 the alleged negligence of the practitioner in the practice of
8 that profession or occupation, or against a hospital licensed
9 under chapter 135B, based on the alleged negligence of the
10 hospital in patient care, in which liability is admitted or
11 established, an award of punitive or exemplary damages
12 pursuant to chapter 668A shall not exceed two hundred fifty
13 thousand dollars.

14 Sec. 2. Section 668A.1, subsection 2, paragraph a, Code
15 2003, is amended to read as follows:

16 a. If the answer or finding pursuant to subsection 1,
17 paragraph "b", is affirmative, the full amount of the punitive
18 or exemplary damages awarded shall be paid to the claimant
19 except as limited by section 147.141, if applicable.

20 EXPLANATION

21 This bill provides that in an action for personal injury or
22 wrongful death against a physician and surgeon, osteopath,
23 osteopathic physician and surgeon, dentist, podiatrist,
24 optometrist, pharmacist, chiropractor, or nurse licensed under
25 Code chapter 147 or against a hospital licensed under Code
26 chapter 135B, based on the alleged negligence of the
27 practitioner or hospital, in which liability is admitted or
28 established, an award of punitive or exemplary damages
29 pursuant to Code chapter 668A shall not exceed \$250,000.

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