

Senate File 2035 - Introduced

SENATE FILE 2035

BY LOFGREN

A BILL FOR

1 An Act relating to statute of repose in medical malpractice
2 claims.

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

1 Section 1. Section 614.1, subsection 9, paragraph a, Code
2 2024, is amended to read as follows:

3 a. Except as provided in paragraph "b", those founded on
4 injuries to the person or wrongful death against any physician
5 and surgeon, osteopathic physician and surgeon, dentist,
6 podiatric physician, optometrist, pharmacist, chiropractor,
7 physician assistant, or nurse, licensed under [chapter 147](#), or a
8 hospital licensed under [chapter 135B](#), arising out of patient
9 care, within two years after the date on which the claimant
10 knew, or through the use of reasonable diligence should have
11 known, or received notice in writing of the existence of, the
12 injury or death for which damages are sought in the action,
13 whichever of the dates occurs first, ~~but.~~ However, in no event
14 shall any action be brought more than six years after the date
15 on which occurred the act or omission or occurrence alleged in
16 the action to have been the cause of the injury or death unless
17 a any of the following are true:

18 (1) A foreign object unintentionally left in the body caused
19 the injury or death.

20 (2) The licensee or the licensee's staff concealed from the
21 person the act, omission, or occurrence that was the cause of
22 the injury or death.

23 EXPLANATION

24 The inclusion of this explanation does not constitute agreement with
25 the explanation's substance by the members of the general assembly.

26 This bill relates to the statute of repose for medical
27 malpractice claims.

28 Under current law, medical malpractice claims are subject
29 to a two-year statute of limitations and six-year statute of
30 repose. A statute of limitations bars the right to bring an
31 accrued action after a specified time, whereas a statute of
32 repose terminates any right of action after a specified time,
33 regardless of whether or not an injury has yet occurred.

34 Specifically, current Code section 614.1(9)(a) requires
35 that medical malpractice claims be brought within two years

1 after the date on which the claimant knew, should have known
2 through the use of reasonable diligence, or received notice
3 in writing of the existence of, the injury or death for which
4 damages are sought in the action, whichever of the dates occurs
5 first. Current Code section 614.1(9)(a) bars actions brought
6 more than six years after the date of the act or omission
7 alleged to have been the cause of the injury or death, but
8 exempts from the statute of repose cases where a foreign object
9 was unintentionally left in the body and caused the injury or
10 death.

11 The bill provides a second exception to the six-year statute
12 of repose. Under the bill, if the cause of the injury or
13 death was concealed from the person by the physician and
14 surgeon, osteopathic physician and surgeon, dentist, podiatric
15 physician, optometrist, pharmacist, chiropractor, physician
16 assistant, nurse, or hospital, or their staff, the six-year
17 statute of repose does not apply.