

SENATE BILL No. 82

February 25, 1987, Introduced by Senators DE GROW, SCHWARZ, NICHOLS, GAST, POSTHUMUS, DI NELLO, ENGLER, GEAKE, WELBORN, ARTHURHULTZ, CROPSEY and BARCIA and referred to the Committee on Judiciary.

A bill to amend sections 1483 and 5851 of Act No. 236 of the Public Acts of 1961, entitled as amended
"Revised judicature act of 1961,"
section 1483 as added and section 5851 as amended by Act No. 178 of the Public Acts of 1986, being sections 600.1483 and 600.5851 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1483 and 5851 of Act No. 236 of the
2 Public Acts of 1961, section 1483 as added and section 5851 as
3 amended by Act No. 178 of the Public Acts of 1986, being sections
4 600.1483 and 600.5851 of the Michigan Compiled Laws, are amended
5 to read as follows:

6 Sec. 1483. (1) In an action for damages alleging medical
7 malpractice against a person or party specified in section 5838a,
8 damages for noneconomic loss which exceeds \$225,000.00 shall not

1 be awarded unless 1 or more of the following circumstances
2 exist:

3 ~~(a) There has been a death.~~

4 (A) ~~(b)~~ There has been an intentional tort.

5 (B) ~~(c)~~ A foreign object was wrongfully left in the body
6 of the patient.

7 ~~(d) The injury involves the reproductive system of the~~
8 ~~patient.~~

9 (C) ~~(e)~~ The discovery of the existence of the claim was
10 prevented by the fraudulent conduct of a health care provider.

11 (D) ~~(f)~~ A limb or organ of the patient was wrongfully
12 removed.

13 ~~(g) The patient has lost a vital bodily function.~~

14 (2) In awarding damages in an action alleging medical mal-
15 practice, the trier of fact shall itemize damages into economic
16 and noneconomic damages.

17 (3) "Noneconomic loss" means damages or loss due to pain,
18 suffering, inconvenience, physical impairment, physical disfig-
19 urement, or other noneconomic loss.

20 (4) The limitation on noneconomic damages set forth in sub-
21 section (1) shall be increased by an amount determined by the
22 state treasurer at the end of each calendar year to reflect the
23 cumulative annual percentage increase in the consumer price
24 index. As used in this subsection, "consumer price index" means
25 the most comprehensive index of consumer prices available for
26 this state from the bureau of labor statistics of the United
27 States department of labor.

1 Sec. 5851. (1) Except as otherwise provided in subsection
2 (7), if the person first entitled to make an entry or bring an
3 action is under 18 years of age, insane, or imprisoned at the
4 time the claim accrues, the person or those claiming under the
5 person shall have 1 year after the disability is removed through
6 death or otherwise, to make the entry or bring the action
7 although the period of limitations has run. This section does
8 not lessen the time provided for in section 5852.

9 (2) The term insane as employed in this chapter means a con-
10 dition of mental derangement such as to prevent the sufferer from
11 comprehending rights he or she is otherwise bound to know and is
12 not dependent on whether or not the person has been judicially
13 declared to be insane.

14 (3) To be deemed a disability, the infancy, insanity, or
15 imprisonment must exist at the time the claim accrues. If the
16 disability comes into existence after the claim has accrued, the
17 disability shall not be recognized under this section for the
18 purpose of modifying the period of limitations.

19 (4) Successive disabilities shall not be tacked. That is,
20 only those disabilities which exist at the time the claim first
21 accrues and which disable the person to whom the claim first
22 accrues shall be recognized under this section for the purpose of
23 modifying the period of limitations.

24 (5) All of the disabilities of infancy, insanity, and
25 imprisonment which disable the person to whom the claim first
26 accrues at the time the claim first accrues shall be recognized.
27 That is, the year of grace provided in this section shall be

1 counted from the termination of the last disability to the person
2 to whom the claim originally accrued which has continued from the
3 time the claim accrued, whether this disability terminates
4 because of the death of the person disabled or for some other
5 reason.

6 (6) With respect to a claim accruing before the effective
7 date of the age of majority act of 1971, Act No. 79 of the Public
8 Acts of 1971, being sections 722.51 to 722.55 of the Michigan
9 Compiled Laws, disability of infancy shall be considered removed
10 as of the effective date of Act No. 79 of the Public Acts of
11 1971, as to persons who were at least 18 years of age but less
12 than 21 years of age on January 1, 1972, and shall be considered
13 removed as of the eighteenth birthday of a person who was under
14 18 years of age on January 1, 1972.

15 (7) If, at the time a claim alleging medical malpractice
16 accrues to a person under section 5838a, the person is ~~+3-~~ 6
17 years of age or less, an action based on the claim shall not be
18 brought unless the action is commenced on or before the person's
19 ~~fifteenth~~ EIGHTH birthday. If, at the time a claim alleging
20 medical malpractice accrues to a person under section 5838a, the
21 person is more than ~~+3-~~ 6 years of age, he or she shall be
22 subject to the period of limitations set forth in section 5838a.