**A** **BILL**

TO AMEND SECTION 15‑78‑30 OF THE 1976 CODE, RELATING TO DEFINITIONS FOR PURPOSES OF THE SOUTH CAROLINA TORT CLAIMS ACT, TO PROVIDE A DEFINITION FOR ECONOMIC AND NONECONOMIC DAMAGES; AND TO AMEND SECTION 15‑78‑120, RELATING TO LIABILITY LIMITS IMPOSED BY THE TORT CLAIMS ACT, TO PROVIDE THAT A PERSON MAY RECOVER THE ACTUAL AMOUNT OF HIS ECONOMIC DAMAGES, TO PROVIDE THAT LIMITS ON NONECONOMIC DAMAGES ARE FIFTY THOUSAND DOLLARS PER PERSON AND NO MORE THAN SIX HUNDRED THOUSAND DOLLARS PER OCCURRENCE, AND THAT THE LIMITS ON NONECONOMIC DAMAGES CAUSED BY A LICENSED PHYSICIAN OR DENTIST ARE THREE HUNDRED FIFTY THOUSAND DOLLARS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 15‑78‑30 of the 1976 Code is amended by adding:

“(k) ‘Economic damages’ means pecuniary damages arising from medical expenses and medical care, rehabilitation services, costs associated with education, custodial care, loss of earnings and earning capacity, loss of income, burial costs, loss of use of property, costs of repair or replacement of property, costs of obtaining substitute domestic services, a claim for loss of spousal services, loss of employment, loss of business or employment opportunities, loss of retirement income, and other monetary losses.

(l) ‘Noneconomic damages’ means nonpecuniary damages arising from pain, suffering, inconvenience, physical impairment, disfigurement, mental anguish, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, humiliation, other nonpecuniary damages, and any other theory of damages including, but not limited to, fear of loss, illness, or injury.”

SECTION 2. Section 15‑78‑120 of the 1976 Code is amended to read:

“Section 15‑78‑120. (a) For any action or claim for damages brought under the provisions of this chapter a person may recover the actual amount of his economic damages.

~~(a)~~(b) For any action or claim for damages brought under the provisions of this chapter, the liability for noneconomic damages shall not exceed the following limits:

(1) Except as provided in Section 15‑78‑120(a)(3), no person shall recover in any action or claim brought hereunder a sum exceeding ~~three hundred~~ fifty thousand dollars because of loss arising from a single occurrence regardless of the number of agencies or political subdivisions involved.

(2) Except as provided in Section 15‑78‑120(a)(4), the total sum recovered hereunder arising out of a single occurrence shall not exceed six hundred thousand dollars regardless of the number of agencies or political subdivisions or claims or actions involved.

(3) No person may recover in any action or claim brought hereunder against any governmental entity and caused by the tort of any licensed physician or dentist, employed by a governmental entity and acting within the scope of his profession, a sum exceeding ~~one million two~~ three hundred fifty thousand dollars because of loss arising from a single occurrence regardless of the number of agencies or political subdivisions involved.

(4) The total sum recovered hereunder arising out of a single occurrence of liability of any governmental entity for any tort caused by any licensed physician or dentist, employed by a governmental entity and acting within the scope of his profession, may not exceed ~~one million two~~ three hundred fifty thousand dollars regardless of the number of agencies or political subdivisions or claims or actions involved.

(5) The provisions of Section 15‑78‑120(a)(3) and (a)(4) shall in no way limit or modify the liability of a licensed physician or dentist, acting within the scope of his profession, with respect to any action or claim brought hereunder which involved services for which the physician or dentist was paid, should have been paid, or expected to be paid at the time of the rendering of the services from any source other than the salary appropriated by the governmental entity or fees received from any practice plan authorized by the employer whether or not the practice plan is incorporated and registered with the Secretary of State.

~~(b)~~(c) No award for damages under this chapter shall include punitive or exemplary damages or interest prior to judgment.

~~(c)~~(d) In any claim, action, or proceeding to enforce a provision of this chapter, the signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion, or other paper; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well‑grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney’s fee.”

SECTION 3. This act takes effect upon approval of the Governor and applies to any cause of action arising on or after the effective date. For any cause of action arising with one year prior to the effective date of this act, a person may elect to be bound by the limits on liability imposed by Section 15‑78‑120 as those limits existed prior to the effective date of this act or as amended by this act. For any claim arising within one year prior to the effective date of this act that has not been filed pursuant to Section 15‑78‑80 as of the effective date, the claimant may include in the filing required by Section 15‑78‑80 an election to proceed under the limits on liability imposed by Section 15‑78‑120 as amended by this act. For any claim arising prior to the effective date of this act that is pending as of the effective date, the claimant may elect in writing served upon all parties to the action to be bound by the liability limits imposed by Section 15‑78‑120 as amended by this act, provided that the election is made no later than thirty days prior to the date set for trial.

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