

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 198 Session of 2009

INTRODUCED BY GODSHALL, BENNINGHOFF, BEYER, BOYD, CLYMER,
CREIGHTON, CUTLER, DENLINGER, EVERETT, FAIRCHILD, GINGRICH,
GROVE, KORTZ, MOUL, MUSTIO, O'NEILL, PHILLIPS, PYLE, REED,
ROSS, SWANGER AND TURZAI, FEBRUARY 2, 2009

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 2, 2009

AN ACT

1 Amending the act of March 20, 2002 (P.L.154, No.13), entitled
2 "An act reforming the law on medical professional liability;
3 providing for patient safety and reporting; establishing the
4 Patient Safety Authority and the Patient Safety Trust Fund;
5 abrogating regulations; providing for medical professional
6 liability informed consent, damages, expert qualifications,
7 limitations of actions and medical records; establishing the
8 Interbranch Commission on Venue; providing for medical
9 professional liability insurance; establishing the Medical
10 Care Availability and Reduction of Error Fund; providing for
11 medical professional liability claims; establishing the Joint
12 Underwriting Association; regulating medical professional
13 liability insurance; providing for medical licensure
14 regulation; providing for administration; imposing penalties;
15 and making repeals," providing for medical professional
16 liability actions.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. The act of March 20, 2002 (P.L.154, No.13), known
20 as the Medical Care Availability and Reduction of Error (Mcare)
21 Act, is amended by adding a section to read:

22 Section 505.1. Medical professional liability actions.

23 (a) General rule.--In any medical professional liability
24 action against a health care provider based on professional

1 negligence, the injured patient shall be entitled to recover
2 noneconomic losses to compensate for pain, suffering,
3 inconvenience, physical impairment, disfigurement and other
4 nonpecuniary damage.

5 (b) Damages.--In no medical professional liability action
6 shall the amount of damages for noneconomic losses exceed
7 \$250,000.

8 (c) Exclusion.--The provisions of this section shall not
9 apply to a health care provider if the act or omission to act in
10 the rendering of professional services was not in good faith and
11 in a manner amounting to gross negligence or reckless, willful
12 or wanton conduct.

13 (d) Definitions.--As used in this section, the following
14 words and phrases shall have the meanings given to them in this
15 subsection:

16 "Professional negligence." A negligent act or omission to
17 act by a health care provider in the rendering of professional
18 services which is the proximate cause of a personal injury or
19 wrongful death if the services are within the scope of services
20 for which the provider is licensed and which are not within any
21 restriction imposed by the entity licensing the health care
22 provider.

23 Section 2. All acts and parts of acts are repealed insofar
24 as they are inconsistent with this act.

25 Section 3. This act shall take effect in 60 days.