

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1278 Session of
1995

INTRODUCED BY TRICH, MASLAND, BELFANTI, FARGO, WOZNIAK, CLARK,
MELIO, DALEY, CARONE, GODSHALL AND FLICK, MARCH 22, 1995

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 22, 1995

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for recovery of
3 noneconomic losses in certain actions against health care
4 providers.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 42 of the Pennsylvania Consolidated
8 Statutes is amended by adding a section to read:

9 § 8372. Noneconomic losses in medical malpractice cases.

10 (a) General rule.--In any action for injury against a health
11 care provider based on medical malpractice, the injured
12 plaintiff shall be entitled to recover noneconomic losses to
13 compensate for pain, suffering, inconvenience, physical
14 impairment, disfigurement and other nonpecuniary damage.

15 (b) Amount of damages.--The amount of damages for
16 noneconomic losses in any medical malpractice action shall be no
17 more than \$250,000.

18 (c) Definitions.--As used in this section, the following
19 words and phrases shall have the meanings given to them in this

1 subsection:

2 "Health care provider." A primary health center or a person,
3 corporation, facility, institution or other entity licensed or
4 approved by the Commonwealth to provide health care or
5 professional medical services as a medical doctor, an osteopath,
6 a certified nurse midwife, a podiatrist, hospital, nursing home
7 or birth center. The term includes an officer, employee or agent
8 of a health care provider if the officer, employee or agent is
9 acting in the course and scope of his employment. The term also
10 includes a professional corporation, professional association or
11 partnership owned entirely by health care providers.

12 "Medical malpractice." An injury or wrong to an individual
13 caused by a health care provider's provision of, or failure to
14 provide, medical service, diagnosis or consultation.

15 "Medical service." Includes, but is not limited to:

16 (1) The provision of medical treatment, a diagnostic
17 test, medical consultation and any service incident to them.

18 (2) A decision, consultation, recommendation or other
19 advice made as part of a formal peer review process regarding
20 the qualifications of a health care provider to provide
21 health care or the appropriateness of health care by a health
22 care provider, rendered individually or as a member of a
23 group, such as a committee performing peer review as defined
24 in section 2 of the act of July 20, 1974 (P.L.564, No.193),
25 known as the Peer Review Protection Act.

26 Section 2. The addition of 42 Pa.C.S. § 8372 shall apply to
27 damage awards made on or after the effective date of this act.

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