

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 747 Session of 2015

INTRODUCED BY VOGEL, WHITE, SCARNATI, STEFANO, MENSCH, WARD, FOLMER, BARTOLOTTA AND McILHINNEY, APRIL 20, 2015

SENATOR WHITE, BANKING AND INSURANCE, AS AMENDED, JUNE 2, 2015

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," FURTHER PROVIDING FOR PUNITIVE DAMAGES; <--
16 providing for punitive damages study; and imposing duties on
17 the Insurance Commissioner.

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

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

23 SECTION 1. SECTION 505(D) OF THE ACT OF MARCH 20, 2002 <--
24 (P.L.154, NO.13), KNOWN AS THE MEDICAL CARE AVAILABILITY AND
25 REDUCTION OF ERROR (MCARE) ACT, IS AMENDED TO READ:

1 SECTION 505. PUNITIVE DAMAGES.

2 * * *

3 (D) TOTAL AMOUNT OF DAMAGES.--THE FOLLOWING SHALL APPLY:

4 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2) AND IN CASES
5 ALLEGING INTENTIONAL MISCONDUCT, PUNITIVE DAMAGES AGAINST AN
6 INDIVIDUAL PHYSICIAN SHALL NOT EXCEED 200% OF THE
7 COMPENSATORY DAMAGES AWARDED. PUNITIVE DAMAGES, WHEN AWARDED,
8 SHALL NOT BE LESS THAN \$100,000 UNLESS A LOWER VERDICT AMOUNT
9 IS RETURNED BY THE TRIER OF FACT.

10 (2) THE FOLLOWING SHALL APPLY:

11 (I) EXCEPT IN CASES ALLEGING INTENTIONAL MISCONDUCT,
12 PUNITIVE DAMAGES AGAINST ANY OF THE FOLLOWING SHALL NOT
13 EXCEED 200% OF THE COMPENSATORY DAMAGES AWARDED:

14 (A) A PERSONAL CARE HOME OR AN ASSISTED LIVING
15 COMMUNITY, LICENSED BY THE DEPARTMENT OF HUMAN
16 SERVICES UNDER THE ACT OF JUNE 13, 1967 (P.L.31,
17 NO.21), KNOWN AS THE PUBLIC WELFARE CODE.

18 (B) A LONG-TERM CARE NURSING FACILITY LICENSED
19 BY THE DEPARTMENT OF HEALTH UNDER THE ACT OF JULY 19,
20 1979 (P.L.130, NO.48), KNOWN AS THE HEALTH CARE
21 FACILITIES ACT.

22 (C) AN OFFICER, EMPLOYEE OR AGENT OF THE
23 ENTITIES UNDER CLAUSES (A) AND (B), WHILE ACTING IN
24 THE COURSE AND SCOPE OF THEIR EMPLOYMENT.

25 (II) PUNITIVE DAMAGES, WHEN AWARDED, SHALL NOT BE
26 LESS THAN \$100,000 UNLESS A LOWER VERDICT AMOUNT IS
27 RETURNED BY THE TRIER OF FACT.

28 * * *

29 SECTION 2. THE ACT IS AMENDED BY ADDING A CHAPTER TO READ:

30 CHAPTER 13

1 PUNITIVE DAMAGES STUDY

2 Section 1301. Duty of commissioner.

3 The commissioner shall study the amount of punitive damages
4 paid by physicians, long-term care nursing facilities licensed
5 by the Department of Health and personal care homes AND ASSISTED <--
6 LIVING FACILITIES licensed by the Department of Human Services
7 practicing in this Commonwealth since March 20, 2005. State
8 agencies shall cooperate with the commissioner as necessary to
9 obtain this information.

10 Section 1302. Completion of study and updates.

11 The commissioner must complete the study one year after this
12 chapter takes effect.

13 Section 1303. Submission.

14 The study must be submitted to the following:

15 (1) The chairman and minority chairman of the Banking
16 and Insurance Committee of the Senate.

17 (2) The chairman and minority chairman of the Insurance
18 Committee of the House of Representatives.

19 Section 2 3. This act shall take effect ~~immediately.~~ AS <--

20 FOLLOWS:

21 (1) THE AMENDMENT OF SECTION 505(D) OF THE ACT SHALL
22 TAKE EFFECT IN 60 DAYS.

23 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
24 IMMEDIATELY.