

MEDICAL MALPRACTICE - MONETARY CAP

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Michael G. Waddoups

This act modifies the Judicial Code. This act increases the limit on the recovery of noneconomic damages in malpractice actions against health care providers. The act provides for an annual adjustment to the limit based on inflation, with this adjustment applying only to a cause of action that arises after the adjustment is made. This act requires rulemaking and provides an effective date.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

78-14-7.1, as enacted by Chapter 205, Laws of Utah 1986

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78-14-7.1** is amended to read:

78-14-7.1. Limitation of award of noneconomic damages in malpractice actions.

(1) In a malpractice action against a health care provider, an injured plaintiff may recover noneconomic losses to compensate for pain, suffering, and inconvenience. ~~[In no case shall the]~~ The amount of damages awarded for ~~[such]~~ noneconomic loss may not exceed [\$250,000. This limitation]:

(a) for a cause of action arising before July 1, 2001, \$250,000;

(b) for a cause of action arising on or after July 1, 2001 and before July 1, 2002, the limitation is adjusted for inflation to \$400,000; and

(c) for a cause of action arising on or after July 1, 2002, the \$400,000 limitation described in Subsection (1)(b) shall be adjusted for inflation as provided in Subsection (2).

(2) (a) Beginning July 1, 2002 and each July 1 thereafter, the limit for damages under Subsection (1)(c) shall be adjusted for inflation by the state treasurer.

(b) By July 15 of each year, the state treasurer shall:

(i) certify the inflation-adjusted limit calculated under this Subsection (2); and

(ii) inform the Administrative Office of the Courts of the certified limit.

(c) The amount resulting from Subsection (2)(a) shall:

(i) be rounded to the nearest \$10,000; and

(ii) apply to a cause of action arising on or after the date the annual adjustment is made.

(3) As used in this section, "inflation" means the seasonally adjusted consumer price index for all urban consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(4) The limit under Subsection (1) does not [~~affect~~] apply to awards of punitive damages.

Section 2. Transition clause.

This act has prospective effect only and any changes to the law caused by this act do not apply to any claims based upon injuries or losses that occurred before July 1, 2001.

Section 3. Effective date.

This act takes effect on July 1, 2001.