## MAINE STATE LEGISLATURE

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1	L.D. 2523
2	(Filing No. S-342 )
3	STATE OF MAINE
4 5	SENATE 113TH LEGISLATURE
5 6	SECOND REGULAR SESSION
7	SENATE AMENDMENT "A " to H.P. 1843, L.D. 2523,
8 9	Bill, "AN ACT to Establish a Limit on Noneconomic Damages."
10	Amend the bill by striking out all of the title
11	(page 1, lines 1 and 2 in L.D.) and inserting in its
12	place the following:
13	'AN ACT to Establish a Limit on Noneconomic
14	Damages in Medical Malpractice Actions.'
15 16	Further amend the bill by striking out all of section 1 and inserting in its place the following:
17	'Sec. 1. 14 MRSA §1455 is enacted to read:
18	§1455. Damage award limitation in personal injury
19	actions for professional negligence
20	1. Definitions. As used in this section, unless
21 22	the context indicates otherwise, the following terms have the following meanings.
23 24	A. "Action for professional negligence" has the meaning set forth in Title 24, section 2502,
25	subsection 6.

## SENATE AMENDMENT " A" to H.F. 1843, L.D. 2523

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B. "Economic damages" means objectively verifiable pecuniary damages arising from medical expenses and medical care; rehabilitation services; custodial care; medical, rehabilitation or custodial care provided outside of a health care provider facility; loss of earnings and earning capacity; loss of income; loss of income
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                      or earnings by a spouse or other relative who provides custodial care; burial costs; loss of use
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                       of property; costs of repair or replacement of
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                      property; costs of obtaining substitute domestic services; loss of employment; loss of business or employment opportunities; and other objectively
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                       verifiable monetary losses.
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- C. "Health care provider" has the meaning set 15 forth in Title 24, section 2502, subsection 2. 16
- damages" subjective, 17 D. "Noneconomic means nonpecuniary damages arising from pain, suffering, 18 19 inconvenience, physical impairment, disfigurement, mental anguish, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, humiliation and other nonpecuniary damages, including those arising from theories of damages such as fear of loss, illness or injury. It does not include punitive damages. 20 21 22 23 24 25
- 2. Damage award limitation. In any action for professional negligence, the noneconomic damages 26 27 awarded to awarded to a prevailing party may not exceed \$500,000. If the trial of the action is to a jury, 28 29 \$500,000. If the trial of the action is to a jury, the jury shall not be informed of the damage award limitation established in this subsection. If the jury awards total damages in excess of \$500,000, the court shall direct the jury to establish the portion of the total damages awarded that is economic damages and the portion that is noneconomic damages. If the portion that is noneconomic damages exceeds \$500,000, the court shall reduce the noneconomic damages awarded to that amount, unless a further reduction is 30 31 32 33 34 35 36 37 to that amount, unless a further reduction 38 warranted by exercise of the powers described in 39

40 subsection 3.

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- 3. Court's powers. Nothing in this section is intended to eliminate the court's powers of additur and remittitur with regard to all damages, except to the extent that the power of additur is limited with regard to noneconomic damages beyond the limitation established in subsection 2.
- 4. Sunset; report. This section is repealed on October 1, 1993. By February 1, 1993, the Superintendent of Insurance shall report to the joint standing committee of the Legislature having jurisdiction over judiciary the impact of the provisions of this section upon the premiums charged for liability insurance provided to health care providers, health care practitioners and their agents and employees in this State.'

## 16 STATEMENT OF FACT

- 17 The purpose of this amendment is to:
- 1. Apply the limitation on awards of noneconomic damages to medical malpractice actions only. The amendment limits the damages caps to medical malpractice actions by use of the term "action for professional negligence." The term is defined in the Maine Health Security Act. It includes actions seeking damages for injury or death against any health care provider or health care practitioner, or their agents or employees.
- 2. Make it clear that damages for care provided outside of a health care facility, and damages arising from the lost income of a person who must give up work to take care of an injured relative, are economic, rather than noneconomic damages. This is done by adding a definition of "economic damages" to the bill.

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34 (Sen. MATTHEWS)
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