

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 544

H.P. 400

House of Representatives, March 3, 1989

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative PARADIS of Old Town.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act to Extend the Statute of Limitations for Medical Malpractice
Cases.



1 **Be it enacted by the People of the State of Maine as follows:**

3 **Sec. 1. 24 MRSA §2902**, as repealed and replaced by PL 1985,
c. 804, §§13 and 22, is amended to read:

5
7 **§2902. Statute of limitations for health care providers
and health care practitioners**

9 Actions for professional negligence shall be commenced
11 within 3 5 years after the cause of action accrues. For the
13 purposes of this section, a cause of action accrues on the date
15 of the act or omission giving rise to the injury. Notwithstanding
17 the provisions of Title 14, section 853, relating to minority,
19 actions for professional negligence by a minor shall be commenced
21 within 6 years after the cause of action accrues or within 3
23 years after the minor reaches the age of majority, whichever
25 first occurs. This section does not apply where when the cause of
action is based upon the leaving of a foreign object in the body,
in which case the cause of action shall accrue when the plaintiff
discovers or reasonably should have discovered the harm. For the
purposes of this section, the term "foreign object" does not
include a chemical compound, prosthetic aid or object
intentionally implanted or permitted to remain in the patient's
body as a part of the health care or professional services.

27 If the provision in this section reducing the time allowed
29 for a minor to bring a claim is found to be void or otherwise
31 invalidated by a court of proper jurisdiction, then the statute
of limitations for professional negligence shall be 2 years after
the cause of action accrues, except that no claim brought under
the ~~3-year~~ 5-year statute may be extinguished by the operation of
this paragraph.

33 **Sec. 2. Application.** Section 1 of this Act applies to any
35 notice of claim or claim filed on or after the effective date of
37 this Act, except that no claims previously barred by the statute
of limitations may be revived.

39

41 **STATEMENT OF FACT**

43 Section 1 of this bill is intended to extend the statute of
45 limitations in medical malpractice cases from 3 years to 5
47 years. The current 3-year statute of limitations applicable to
most actions against health care providers and practitioners is too
short. In some cases, the injurious consequences of medical
malpractice take longer than 3 years to manifest themselves.

49

51 Section 2 concerns the application of section 1. The 5-year
statute of limitations will apply to claims which accrued prior

1 to the enactment of this bill, except that no claims previously
3 barred by the statute of limitations will be revived.