

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 423

S.P. 161

In Senate, February 6, 1995

**An Act to Establish a Limit on Noneconomic Damages in Medical
Malpractice Actions.**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator KIEFFER of Aroostook.

Cosponsored by Senators: BEGLEY of Lincoln, BERUBE of Androscoggin, CAREY of Kennebec, CARPENTER of York, CASSIDY of Washington, FERGUSON of Oxford, HALL of Piscataquis, PENDEXTER of Cumberland, Representatives: AULT of Wayne, CLUKEY of Houlton, CROSS of Dover-Foxcroft, DONNELLY of Presque Isle, DUNN of Gray, JOY of Crystal, JOYCE of Biddeford, JOYNER of Hollis, KNEELAND of Easton, NASS of Acton, PLOWMAN of Hampden.

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

Sec. 1. 24 MRSA c. 21, sub-c. XI is enacted to read:

SUBCHAPTER XI

LIMITS ON NONECONOMIC DAMAGES

§2995. Limits on noneconomic damages

1. Definitions. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Noneconomic damages" means subjective, nonpecuniary damages arising from pain, suffering, inconvenience, physical impairment, disfigurement, mental anguish, emotional stress, loss of society and companionship, loss of consortium, injury to reputation, humiliation, other nonpecuniary damages and any other theory of damages such as fear of loss, illness or injury.

2. Limitation. In an action for professional negligence as defined in section 2502, subsection 6, the noneconomic damages awarded to a prevailing party may not exceed \$250,000. If the trial of the action is by a jury, the jury may not be informed of the damage award limitation established in this section. If the jury awards total damages in excess of \$250,000, the court shall direct the jury to establish the portion of the total damages awarded that is noneconomic damages. If the portion that is noneconomic damages exceeds \$250,000, the court shall reduce the noneconomic damages awarded to that amount, unless a further reduction is warranted by exercise of the powers described in subsection 3.

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. Application. This section applies to all cases in which notices of claim are filed after the effective date of this section.

STATEMENT OF FACT

This bill sets a limit of \$250,000 on noneconomic damages in medical liability actions. Under this bill, a plaintiff is still

2 entitled to the full economic loss, including all medical
expenses, rehabilitation services, custodial care, loss of
4 earnings and earning capacity, loss of income and any other
verifiable monetary losses.