

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1303

H.P. 926

House of Representatives, February 16, 1999

An Act to Amend the Statute of Limitations for Medical Malpractice.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative WATSON of Farmingdale.
Cosponsored by Senator RAND of Cumberland and
Representatives: BULL of Freeport, DUPLESSIE of Westbrook, FISHER of Brewer, GREEN
of Monmouth, NORBERT of Portland, TRUE of Fryeburg, Senators: MILLS of Somerset,
MURRAY of Penobscot.

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

4 **Sec. 1. 24 MRSA §2902**, as repealed and replaced by PL 1985,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

6 **§2902. Statute of limitations for health care providers
and health care practitioners**

8
10 Actions for professional negligence shall ~~shall~~ **must** be commenced
12 within 3 years after the ~~cause--of--action~~ negligence is
14 discovered, or with reasonable diligence should have been
16 discovered, or 6 years after the cause of action accrues,
18 whichever occurs first. For the purposes of this section, a
20 cause of action accrues on the date of the act or omission giving
22 rise to the injury. Notwithstanding the provisions of Title 14,
24 section 853, relating to minority, actions for professional
26 negligence by a minor shall ~~shall~~ **must** be commenced within 6 years
28 after the cause of action accrues or within 3 years after the
minor reaches the age of majority, whichever first occurs. This
section does not apply where 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~~ **accrues** 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.

30 If the provision in this section reducing the time allowed
32 for a minor to bring a claim is found to be void or otherwise
34 invalidated by a court of proper jurisdiction, then the statute
of limitations for professional negligence shall ~~be~~ **is** 2 years
after the cause of action accrues, except that ~~no~~ **a** claim brought
under the 3-year statute may **not** be extinguished by the operation
of this paragraph.

36
38 **SUMMARY**

40 This bill amends the statute of limitations relating to
42 health care providers and health care practitioners. The bill
44 requires an action for professional negligence to be commenced
46 within 3 years after a plaintiff discovers, or in the exercise of
reasonable diligence should have discovered, the injury but not
more than 6 years after the cause of action accrues.