

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1192

S.P. 440

In Senate, March 25, 2009

An Act To Change the Statute of Limitations for Health Care Practitioners

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MILLS of Somerset.

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

Sec. 1. 24 MRSA §2902, as repealed and replaced by PL 1985, c. 804, §§13 and 22, is repealed and the following enacted in its place:

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

1. Accrual. For purposes of this section, a cause of action accrues on the date of the act or omission giving rise to the injury unless the cause of action is one subject to subsection 2.

2. Foreign objects. Where the cause of action is based upon the leaving of a foreign object in the body, the cause of action accrues when the plaintiff discovers or reasonably should have discovered the harm. For purposes of this subsection, "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.

3. Limitation of actions. Actions for professional negligence must be commenced within 3 years after the negligence is discovered, but in no event may any such action be commenced more than 6 years after the cause of action accrues.

4. Minors. Notwithstanding the provisions of Title 14, section 853, relating to minority, actions under this chapter for harm to a minor must be commenced within 6 years after the cause of action accrues regardless of when the negligence is discovered.

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

SUMMARY

This bill provides a statute of limitations for actions for professional negligence regarding health care providers and health care practitioners of 3 years after the negligence is discovered but in no event more than 6 years after the cause of action accrues.