

AN ACT GENERALLY REVISING LAWS RELATED TO PHYSICIAN ASSISTANTS; REVISING THE NONECONOMIC DAMAGE LIMITATION APPLICABLE IN MEDICAL MALPRACTICE CASES; INCLUDING "PHYSICIAN ASSISTANT" IN THE DEFINITION OF "HEALTH CARE PROVIDER"; PROVIDING FOR ANNUAL INCREASES; PROVIDING APPLICABILITY TO FUTURE AND EXISTING MALPRACTICE CLAIMS; AMENDING SECTION 25-9-411, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

Section 1. Section 25-9-411, MCA, is amended to read:

"25-9-411. (Temporary) Medical malpractice noneconomic damages limitation. (1) (a) In a malpractice claim or claims against one or more health care providers based on a single incident of malpractice, an award for past and future damages for noneconomic loss may not exceed \$250,000. All claims for noneconomic loss deriving from injuries to a patient are subject to an award not to exceed \$250,000. This limitation applies whether:

- (i) based on the same act or a series of acts that allegedly caused the injury, injuries, death, or deaths on which the action or actions are based; or
 - (ii) the act or series of acts were by one or more health care providers.
- (b) If a single incident of malpractice injures multiple, unrelated patients, the limitation on awards contained in subsection (1)(a) applies to each patient and all claims deriving from injuries to that patient.
- (2) (a) For purposes of the limitation on awards contained in subsection (1), a claimant has the burden of proving separate injuries, each arising from a different act or series of acts. An award or combination



of awards in excess of \$250,000 must be reduced to \$250,000, after which the court shall make other reductions that are required by law. If a combination of awards for past and future noneconomic loss is reduced in the same action, future noneconomic loss must be reduced first and, if necessary to reach the \$250,000 limit, past noneconomic loss must then be reduced. If a combination of awards is reduced to \$250,000, a claimant's share of the \$250,000 must be the same percentage as the claimant's share of the combined awards before reduction.

- (b) For each claimant, further reductions must be made in the following order:
- (i) first, reductions under 27-1-702;
- (ii) second, reductions under 27-1-703; and
- (iii) third, setoffs and credits to which a defendant is entitled.
- (3) An award of future damages for noneconomic loss may not be discounted to present value.
- (4) The \$250,000 limit provided for in subsection (1) may not be disclosed to a jury.
- (5) As used in this section, the following definitions apply:
- (a) "Claimant" includes but is not limited to:
- (i) a person suffering bodily injury;
- (ii) a person making a claim as a result of bodily injury to or the death of another;
- (iii) a person making a claim on behalf of someone who suffered bodily injury or death;
- (iv) the representative of the estate of a person who suffered bodily injury or death; or
- (v) a person bringing a wrongful death action.
- (b) "Health care provider" means a physician, <u>physician assistant</u>, dentist, podiatrist, optometrist, chiropractor, physical therapist, or nurse licensed under Title 37 or a health care facility licensed under Title 50, chapter 5.
- (c) "Malpractice claim" means a claim based on a negligent act or omission by a health care provider in the rendering of professional services that is the proximate cause of a personal injury or wrongful death.
 - (d) "Noneconomic loss" means subjective, nonmonetary loss, including but not limited to:
 - (i) physical and mental pain or suffering;
 - (ii) emotional distress;



- (iii) inconvenience;
- (iv) subjective, nonmonetary loss arising from physical impairment or disfigurement;
- (v) loss of society, companionship, and consortium, other than household services;
- (vi) injury to reputation; and
- (vii) humiliation.
- (e) "Patient" means a person who receives services from a health care provider. (Terminates on occurrence of contingency--sec. 11(2), Ch. 429, L. 1997.)
- **25-9-411.** (Effective on occurrence of contingency) Medical malpractice noneconomic damages limitation. (1) (a) In a malpractice claim or claims against one or more health care providers based on a single incident of malpractice, an award for past and future damages for noneconomic loss may not exceed \$250,000. All claims for noneconomic loss deriving from injuries to a patient are subject to an award not to exceed \$250,000. This limitation applies whether:
- (i) based on the same act or a series of acts that allegedly caused the injury, injuries, death, or deaths on which the action or actions are based; or
 - (ii) the act or series of acts were by one or more health care providers.
- (b) If a single incident of malpractice injures multiple, unrelated patients, the limitation on awards contained in subsection (1)(a) applies to each patient and all claims deriving from injuries to that patient.
- (2) (a) For purposes of the limitation on awards contained in subsection (1), a claimant has the burden of proving separate injuries, each arising from a different act or series of acts. An award or combination of awards in excess of \$250,000 must be reduced to \$250,000, after which the court shall make other reductions that are required by law. If a combination of awards for past and future noneconomic loss is reduced in the same action, future noneconomic loss must be reduced first and, if necessary to reach the \$250,000 limit, past noneconomic loss must then be reduced. If a combination of awards is reduced to \$250,000, a claimant's share of the \$250,000 must be the same percentage as the claimant's share of the combined awards before reduction.
 - (b) For each claimant, further reductions must be made in the following order:
 - (i) first, reductions under 27-1-702; and
 - (ii) second, setoffs and credits to which a defendant is entitled.



- (3) An award of future damages for noneconomic loss may not be discounted to present value.
- (4) The \$250,000 limit provided for in subsection (1) may not be disclosed to a jury.
- (5) As used in this section, the following definitions apply:
- (a) "Claimant" includes but is not limited to:
- (i) a person suffering bodily injury;
- (ii) a person making a claim as a result of bodily injury to or the death of another;
- (iii) a person making a claim on behalf of someone who suffered bodily injury or death;
- (iv) the representative of the estate of a person who suffered bodily injury or death; or
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- (b) "Health care provider" means a physician, <u>physician assistant</u>, dentist, podiatrist, optometrist, chiropractor, physical therapist, or nurse licensed under Title 37 or a health care facility licensed under Title 50, chapter 5.
- (c) "Malpractice claim" means a claim based on a negligent act or omission by a health care provider in the rendering of professional services that is the proximate cause of a personal injury or wrongful death.
 - (d) "Noneconomic loss" means subjective, nonmonetary loss, including but not limited to:
 - (i) physical and mental pain or suffering;
 - (ii) emotional distress;
 - (iii) inconvenience;
 - (iv) subjective, nonmonetary loss arising from physical impairment or disfigurement;
 - (v) loss of society, companionship, and consortium, other than household services;
 - (vi) injury to reputation; and
 - (vii) humiliation.
 - (e) "Patient" means a person who receives services from a health care provider."

Section 2. Effective date. [This act] is effective on passage and approval.



I hereby certify that the within bill,	
HB 458, originated in the House.	
Chief Clerk of the House	
Speaker of the House	
Signed this	day
of	, 2025
·	
President of the Senate	
Signed this	
of	, 2025.

HOUSE BILL NO. 458

INTRODUCED BY J. ETCHART

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