

2018 Regular Session

SENATE BILL NO. 503

BY SENATOR WARD

MALPRACTICE. Increases the medical malpractice cap liability from \$500,000 to \$750,000. (8/1/18)

1 AN ACT

2 To amend and reenact R.S. 40:1231.2(B)(1) and (2), 1231.7(J) and the introductory
3 paragraph of 1237.1(F), (2), (3), (6) and (7), and to enact R.S. 40:1231.7(K), relative
4 to medical malpractice; to provide relative to certain limitations of liability; to
5 provide relative to risk management and certain insurance requirements; to provide
6 certain procedures, terms, and conditions; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 40:1231.2(B)(1) and (2), 1231.7(J) and the introductory paragraph
9 of 1237.1(F), (2), (3), (6) and (7) are hereby amended and reenacted and R.S. 40:1231.7(K)
10 is hereby enacted to read as follows:

11 §1231.2. Limitation of recovery

12 * * *

13 B.(1) The total amount recoverable for all malpractice claims for injuries to
14 or death of a patient, exclusive of future medical care and related benefits as
15 provided in R.S. 40:1231.3, shall not exceed ~~five hundred~~ **seven hundred fifty**
16 thousand dollars plus interest and cost. **The total amount recoverable for all**
17 **malpractice claims under this Section may increase with inflation.**

1 (2) A health care provider qualified under this Part is not liable for an amount
 2 in excess of ~~one hundred~~ fifty thousand dollars plus interest thereon accruing after
 3 April 1, 1991, and costs specifically provided for by this Paragraph for all
 4 malpractice claims because of injuries to or death of any one patient. The sole cost
 5 for which a health care provider qualified under this Part may be assessed by a trial
 6 court shall be limited to the cost incurred prior to the rendering of a final judgment
 7 against the health care provider, not as a nominal defendant, after a trial on a
 8 malpractice claim, including but not limited to; costs assessed pursuant to Code of
 9 Civil Procedure Article 970 in any instance where the board was not the offeror or
 10 offeree of the proposed settlement amount. The health care provider shall not be
 11 assessed costs in any action in which the fund intervenes or the health care provider
 12 is a nominal defendant after there has been a settlement between the health care
 13 provider and the claimant.

14 * * *

15 §1231.7. Risk management; authority

16 * * *

17 **J. The risk manager shall require any private insurer writing medical**
 18 **malpractice insurance in this state to disclose to a health care provider enrolled**
 19 **in the Patient's Compensation Fund that the provider is not obligated to**
 20 **purchase medical malpractice insurance in excess of fifty thousand dollars. The**
 21 **disclosure shall be executed by the health care provider and representative of**
 22 **the private insurer.**

23 **K.** The state of Louisiana assumes no liability for medical malpractice
 24 insurance policies written by the authority. Every policy issued by the authority shall
 25 contain a statement that the authority's liability or the liability of the policy is limited
 26 to the authority's reserves.

27 * * *

28 §1237.1. Definitions and general application

29 * * *

1 F. Notwithstanding any other provision of the law to the contrary, no
 2 judgment shall be rendered and no settlement or compromise shall be entered into
 3 for the injury or death of any patient in any action or claim for an alleged act of
 4 malpractice in excess of ~~five hundred~~ **seven hundred fifty** thousand dollars plus
 5 interest and costs, exclusive of future medical care and related benefits valued in
 6 excess of such ~~five hundred~~ **seven hundred fifty** thousand dollars. In claims which
 7 may include future medical care and related benefits, the following procedures shall
 8 apply:

9 * * *

10 (2) If the total amount of the value of the judgment or settlement or
 11 compromise is for ~~five hundred~~ **seven hundred fifty** thousand dollars, plus interest
 12 and costs, exclusive of the value of future medical care and related benefits, all
 13 future medical care and related benefits shall be paid in accordance herewith.

14 (3) If the total amount of recovery, excluding interest and costs but including
 15 the amount of future medical care and related benefits does not exceed ~~five hundred~~
 16 **seven hundred fifty** thousand dollars, judgment may be rendered for the total
 17 amount and paid by the state as provided by Subsection I of this Section.

18 * * *

19 (6) If the total amount of recovery awarded against the state, excluding
 20 interest and costs but including the amount of future medical care and related
 21 benefits, exceeds ~~five hundred~~ **seven hundred fifty** thousand dollars, the claimant
 22 may make a claim to the office of risk management for all future medical care and
 23 related benefits.

24 (7) Payments for medical care and related benefits shall be paid by the office
 25 of risk management pursuant to Subsection L of this Section, without regard to the
 26 ~~five hundred~~ **seven hundred fifty** thousand dollar limitation imposed in this
 27 Subsection.

28 * * *

Effective August 1, 2018.

(Amends R.S. 40:1231.2(B)(1) and (2), 1231.7(J) and 1237.1(F)(intro para), (2), (3), (6) and (7); adds R.S. 40:1231.7(K))