

By Mr. Dempsey of Haverill, petition of Brian S. Dempsey relative to standards of malpractice actions in certain court proceedings. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Five.

AN ACT RELATIVE TO STANDARDS FOR MALPRACTICE ACTIONS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 231 of the General Laws, as appearing in
2 the 1992 Official Edition, is hereby amended by inserting therein
3 the following new section:—

4 Section 60K. In an action in contract or tort for the recovery of
5 damages based upon an injury to or death of a person in which it is
6 alleged that such injury or death resulted from an act or omission
7 in the furnishing or failure to furnish professional services by a
8 physician holding himself out as a specialist, no person shall be
9 competent to give testimony on the standard of care applicable or
10 any deviation therefrom unless such person (1) is a diplomate of
11 the appropriate specialty board recognized by the American
12 Medical Association or, in the case of osteopathic specialties, the
13 American Osteopathic Association or (2) has devoted at least
14 three-quarter of his professional time to active clinical practice of
15 the appropriate specialty in the United States for the three years
16 immediately preceding the commencement of the action or (3) has
17 devoted a substantial portion of his professional time both to
18 active clinical practice of the appropriate specialty and to instruc-
19 tion at a medical school accredited by the liaison committee on
20 medical education.

21 Nothing in this section shall be deemed to limit the discretion of
22 the trial judge to find a person incompetent to testify as an expert
23 on any other ground.

1 SECTION 2. Chapter 231, Section 60G of the Massachusetts
2 General Laws as appearing in the 1992 Official Edition, is hereby
3 amended by the insertion of the words “, or which will be
4 incurred,” after the word “judgement” in line 11, and by the inser-
5 tion of the words “or is anticipated to be” after the word “was” in
6 line 12.

1 SECTION 3. Chapter 231, Section 60F of the Massachusetts
2 General Laws as appearing in the 1992 Official Edition is hereby
3 amended by inserting after the word “compensation” in line 66
4 “and shall itemize the amounts both before and after reduction to
5 present value.”

6 Said Section 60F is further amended by the addition after line
7 66 of the following paragraphs:—

8 Where the findings of fact or special verdict set forth total
9 future damages in excess of \$100,000 prior to reduction to present
10 value, and upon request of any party and demonstration that the
11 liable defendant or defendants can assure full payment of all dam-
12 ages plus interest and costs, the court shall order the entry of
13 judgement providing for periodic payment of future damages
14 without reduction to present value.

15 Such order for entry of judgment shall specify the plaintiff who
16 is to receive the payments, the dollar amounts of the payments,
17 the intervals between payments, and the number of payments or
18 period of time over which payments shall be made for future non-
19 economic damages, impairment of earning capacity, and medical
20 and hospital expenses. Such judgments shall be subject to modifi-
21 cation only to the extent specified in this section.

22 In the event of the death of a plaintiff receiving periodic pay-
23 ments prior to full satisfaction of the judgment, and upon motion
24 of any real party interest, the court shall modify the judgment by
25 deducting from the remaining balance thereof the amount repre-
26 senting unpaid damages for future non-economic losses and for
27 future medical and hospital expenses, and the estate of the
28 deceased plaintiff shall have no claim for such amount.

29 Such order for entry of judgment shall also provide that pre-
30 judgment interest is to be calculated on the past damages plus
31 future damages as reduced to present value by the finder of fact.

1 SECTION 4. Chapter 231, Section 60H of the Massachusetts
2 General Laws, as appearing in the 1992 Official Edition, is
3 amended by the deletion of the entire current section and the
4 insertion of the following:—

5 Section 60H. In any action for malpractice, negligence, error,
6 omission, mistake or the unauthorized rendering of professional
7 services against a provider of health care, the court shall instruct
8 the jury that in the event they find the defendant liable, they shall
9 not award the plaintiff more than two hundred fifty thousand dol-
10 lars as compensation for non-economic damages. In any such
11 action which is tried without a jury, the court shall not award the
12 plaintiff more than two hundred fifty thousand dollars as compen-
13 sation for non-economic damages. If two or more plaintiffs have
14 received verdicts or findings of such damages in a total amount,
15 for all plaintiffs claiming damage from a single occurrence, trans-
16 action, act of malpractice, or injury which exceeds two hundred
17 fifty thousand dollars, the amount of such damages recoverable
18 by each plaintiff will be reduced to a percentage of two hundred
19 fifty thousand dollars proportionate to that plaintiffs share of the
20 total amount of such damages for all plaintiffs. Such limit shall
21 apply regardless of the number of persons liable jointly or sever-
22 ally for the said damages.

23 For purposes of this section, “non-economic damages” include
24 compensation for pain and suffering, embarrassment, loss of com-
25 panionship and other items of general damages, whether past or
26 future.

1 SECTION 5. If any provision of this act or the application of
2 such provision to any person or circumstance shall be invalid, the
3 validity of the remainder of this act and the applicability of such
4 provision to other persons or circumstances shall not be affected
5 thereby.

1 SECTION 6. The provisions of this act shall apply to all
2 actions for which the cause of action has accrued on or after the
3 effective date of this act.

1. The purpose of this document is to provide a comprehensive overview of the current state of the project and to identify the key areas that require attention. The information presented here is based on the most recent data available and is intended to serve as a guide for decision-making.

2. The project has made significant progress since the last meeting, with several key milestones being achieved. However, there are still a number of challenges that need to be addressed in order to ensure the successful completion of the project.

3. The primary focus of the current phase is to improve the efficiency of the development process and to ensure that all team members are fully engaged and motivated. This will be achieved through a combination of improved communication, better resource allocation, and the implementation of new tools and technologies.

4. It is important to note that the project is still in the early stages of development and that there is still a significant amount of work to be done. The team is committed to working hard to overcome these challenges and to delivering a high-quality product to the client.

5. The next steps in the project are to continue to monitor the progress of the development process and to make any necessary adjustments to the plan. It is also important to maintain regular communication with the client and to provide them with regular updates on the project's status.

6. In conclusion, the project is on track and the team is confident that it will be able to deliver a successful outcome. However, it is essential that the team remains focused and committed to the project throughout the entire process.