

HOUSE RESEARCH

Bill Summary

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Overview

This bill makes compliance with a best practice guideline an absolute defense in future medical malpractice lawsuits. It also enacts limits on the damages recoverable, and attorney fees charged, in medical malpractice claims.

Section

- 1 1 Best practice guidelines; use in medical malpractice cases.** Adds § 147.37. (a) Provides that adherence to a best practice guideline approved by a recognized specialty organization or an organization that develops clinical practice guidelines, is an absolute defense against an allegation in a malpractice action that a provider did not comply with accepted standards of practice in the community. States that the paragraph does not apply if the best practice guideline authorizes or recommends denial of treatment, food, or fluids necessary to sustain life on the basis of age, disability, or other specified criteria. [Last sentence is added in the A3 amendment.]
- (b) Provides that evidence of a departure from a practice guideline is admissible only on whether the provider is entitled to this absolute defense.
- (c) States that paragraphs (a) and (b) apply to claims arising on or after August 1, 2004.
- (d) States that the section does not change the standard or burden or proof in an action alleging a delay in diagnosis, misdiagnosis, inappropriate application of a best practice guideline, failure to obtain informed consent, battery or other intentional tort, or product

Section

liability.

2 Health care provider actions; limits on damages and attorney fees. Amends § 604.111.

Subd. 1. Definitions. Defines the terms "economic loss," "health care provider," and "noneconomic loss."

Subd. 2. Limitations. Limits recovery of total damages for noneconomic loss from an occurrence of medical malpractice to \$250,000. Prohibits disclosing this limit to the jury.

Subd. 3. Findings. Specifies how courts must make any reduction in noneconomic damages needed to comply with this section.

Subd. 4. Punitive damages limited. (a) Limits punitive damages in medical malpractice cases to \$250,000. Provides that the jury must not be told of this limit.

(b) Requires that all punitive damages be paid to the Minnesota Comprehensive Health Association (MCHA), for the purpose of reducing its need to assess its members.

(c) Provides that private nonprofit hospitals are not liable for punitive damages.

Subd. 5. Excessive attorney fees prohibited. (a) Limits attorney fees that may be charged to a medical malpractice plaintiff to a percentage of damages received, based on the fee schedule shown in the bill. (b) Specifies that the "damages" for purposes of this subdivision are net of costs incurred by the attorney, such as court filing fees, expert consultation, travel, deposition transcripts, and so on. (c) Provides that a fee agreement that violates this subdivision is void and unenforceable, to the extent of the violation.

Subd. 6. [Deleted in the A3 amendment.]

3 Effective date; application. Provides that section 2 is effective August 1, 2004, and applies to incidents occurring on or after that date.