

SCOMM

101A:21

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

- ① who typed this?
- ② ~~How did it~~ at
whose behest?
- ③ whose idea to
sign it?
- ④ Did you know
that before you
typed it?

4-18

to Al, Dick,

~ 1:05 pm
4-18-97

① McGuire OK, but not Does.

② Bill Allen on Bd?

③ State chamber aboard.
— change "4x" actual out of
aggregated = actual ent.
join

they'll
live w/
aggregated

④ ~~Go for~~ Dick = Go for it.

⑤ We have a deal, but
have to sell to the Senate.

we Al
272-9429

Do it

Tort Reform Summit Participants
April 5, 1997
Juneau Court House

Legislature

~~Senator Miller~~

~~Senator Taylor~~

~~Senator Leman~~

~~Representative Porter~~

~~SEN. TOLSON~~

Administration

~~Bruce Botelho~~

~~Jeff Bush~~

Alaska Action Trust

~~Jeff Feldman~~

~~Mike Schneider~~

John Suddock

Alaskans for Liability Reform

Bill Allen

Roger Holmes (possibility)

Pam LaBolle

Other

Charlie Cole

Staff

~~Mary Gore~~

~~Portia Parker~~

~~Annette Kritzer?~~

8:00
3:00
[Handwritten signatures and notes]

4.17.97
Cof ul Bruce B -
9 Bman P.

Screw node - #/flesh

Tim Kelly?

① ~~Agg~~

① Have to sell to by 5. before bidding

② Both are holding options

③ scope = punitive v. econ.

③ Has to be a written document

④ Brink's consent:

(a) "to each pl" has to go.

(b) Put back in pink language: "know effect of conduct" consequences.

NO ambiguity

⑤ Gov. gave Bill Allen the Veto speech.
Hank have upper hand.

⑥ Gov's re Moroccan damages:

① They want laundry list taken out.
& put in severe disfigurement

② Offer of Judgment: Roger considered it should be dropped.

③ Allegation of fault: re W.C.

④ Tollage of minors

⑥ ~~Brink~~ Brink: Neg only punitive v. Moroccan.
£500K v. Am

⑦ We do let drop?

Hot Issues

Veto speech?

Their mistakes :

- ① Confrontation v. cooperative.
~~Offense~~
- ② False / misleading Advt.
- ③ Effect was offensive & incited a response.
- ④ Would've been better off had they been conciliatory.

~~scribbles~~

4/5/96

~~What is the lady in the story?~~

~~What?~~

~~scribbles~~

~~scribbles~~

Randy - Doyon.

~~scribbles~~

- ① Ellis - Also wants ~~TF~~ more TF.
- ② Gao will hide behind TF legs
- ③ Schneider - endorsed TF.
- ④ - kinship cause ~~prams~~ 

8/9

5

Charlie Cole
Sen. Fitch
Jeff Feldman
Sen. Ellis
John Singsack
Mike Schneider
Bruce Botelho
Jeff Bush
+ AG

Lois Leman
Bryon
- Ann L. Bolle
- Mike Kinner
- Mike Miller
Randy at Doyon
Reudrich

4-14-97

(*)

① Give Brian/Lenora Bancroft's Bill.

② Get side by side for Bancroft

(*)

③ Read Feldman "Agut".

④ Amend E.2

(*)
BRAM

⑤ Terry L. Probl of 3 (Bancroft - Punitive)

⑥ Roger cancelled (?) doc can
pay for ??

(*) John

Tongue

⑦ Jeff Smith's heartburn:

(a) Punitive.

(1) Higher caps gte.

(a) ~~with~~

(b) ER doc.

(1) Insur premiums:

\$1m/2m

\$500K?

> 18% diff??

(?)

(c) NONCAN capt 59.
Severe injuries

⑧ Mike Lerner:

BRAND

DUNCAN Arents:

* Bullock → Lerner re 18%

6657

GREAT SPOKESMAN FOR
BUSINESS & COMMERCE.

How is his testimony ~~at~~
furthering a state interest
as a ~~port~~ defendant?

Roger & Jeff's deal: 44-13

① Purpose § - Redraft re consistent

§2-6 OK

following
stat.

S/R: 11 yrs S/R

- Aut children in st, & out of S/R.
- 10 yrs to 18 yrs.

- Injured kid not show up to Hqs.

- Pt = 10 yr S/L for kids.

10 yr with damage, 10 yr
S/L v. 20 yrs now.

Nonecon damages

500K NOW serious

Conflict between blunders, etc.

Comp. =

15m (2) 75K x yrs (2) 3x econ.

Punitive

- Gov's of 3 party approach, w/
2 charges:

(a) Avgly net income not
come into play unless net
income of at least \$1m.

(b) Include back in recovery to
state on sliding scale.

(c)

Per. Ints out

Callat'l Benefit out

Alloc'd of fault:

(?) - Δ has to bring in part
but closed to bench workshop
& Scott's Hospital

- Jeff
- Give Δ 180 days to bring
in other Δ (i.e. return book?)
- Not willing to include others.
Jeff unwilling

Mike: Draw line. Δ alloc'te fault
to anyone not avail. Compromise.
If someone is avail, they
have to be brought in.

~~521~~ Export W:

Comp. : All itinerant docs are
subj to State Med'l Bd.
IME's

→ 08.64.010

Offer of Indent

- Steve Wm & Roger at TF to cut
both ways. Ours OK

- But Jeff say too confiscatory
for them.

- Stay w/ existing settlements, since
it's more pro Δ.

Q1 Learn ~~to~~ know. Reform.

BAD:

Mike:

~~Ready to leave the room~~
~~with us.~~

2:15 - 3:00

Board at 4 pm 4 main items
~~Compared to~~

① Antitrust: There'll be caps,
but want language that would
protect small businesses
higher levels for big business.

But Jeff thinks he can set up
Roger & draft language.

~~APRIL~~

Not let time run out

Danger
is still

① Robin
Thylos
out

② How
about
no ~~part~~ ~~part~~
what we
negot.

② Noncon damages
- Same dependent under W/D/SHAT

- For youngsters, an alt cap
for more years...

③ Apparent of Fault

- No prob w/ Justice case,
not otherwise.

- otherwise

~~④~~

④ SHAT of Rever

- have out of time

~~Rever~~

- possibility of minor prob.
- wanted larger ~~period~~ for
KLOR

~~OB/GYN only~~

*
* me

Geoff Bullock
Call Bob Vallant to see
if \$I'm avail.

* Fishermen Amendment

* me Call Bob at Sent Wilke collor
Ampt

Condit

Very met of Botelho's
met ~~is~~ today, 1
on sub, HBSF.

Botelho says they
want a compromise
bill. Gov knows
he'll have to cut
out ~~Real~~ lawyers.

∴ We have to be
fair & full hearing.

∴ list of issues
which we cannot
agree.

to show we have
to compromise. we

have to compromise & then to be

~~Don~~ (1604)

Bruce want
Roger next week.

Thing good.

If 5 items not
agreed on.

BRAN & Botelho

~~Sett down to
a gentle agmt~~

Roger has to
give his blessings.

Botelho say what the
Rush.

List of irreconcilable
differences.

FAX TRANSMITTAL

Department of Health & Social Services
Division of Medical Assistance
P.O. Box 110660
Juneau, AK 99811-0660

Phone: (907) 465-3355
FAX: (907) 465-2204

DATE: 04/11/97 03:58 PM

TO: Kristen Bomengen

FAX NO

FROM: Nancy Weller

PAGE 1 of 1

HOSPITAL**ACUTE BEDS****POPULATION**

Cordova	1993	13
Petersburg	3193	11
Seward	2981	20
Sitka	8780	17
Valdez	4400	15
Wrangell	2743	8
Kodiak	7144	25
South Peninsula (Homer)	3985	20

BUTIAN has a
wife to know
need to tend to
but he'll suffer
for a pos'n.

Sec. 18.20.130. Definitions. In AS 18.20.010 — 18.20.130,

- (1) "department" means the Department of Health and Social Services;
- (2) "governmental unit" means the state, a municipality, or other political subdivision, a department, division, board, or other agency of any of them;
- (3) "hospital" means an institution or establishment, public or private, devoted primarily to providing diagnosis, treatment, or care over a continuous period of 24 hours each day for two or more nonrelated individuals suffering from illness, physical or mental disease, injury or deformity, or any other condition for which medical or surgical services would be appropriate. (§ 40-6-1 ACLA 1949; am § 2 ch 112 SLA 1957; am § 2 ch 63 SLA 1964; am § 6 ch 104 SLA 1971; am § 1 ch 72 SLA 1978)

Revisor's notes. — Reorganized in 1986 to alphabetize the defined terms.

Article 2. Alaska Hospital and Medical Facilities Survey and Construction Act.

Section

- 140. Purpose
- 141. Department functions
- 150. Duties of department
- 160. Priority of projects
- 170. Application for construction projects

Section

- 180. Approval of applications
- 190. Inspection of projects
- 200. Acceptance of grants
- 210. Definitions
- 220. Short title

Collateral references. — 40 Am. Jur. 2d, Hospitals and Asylums, §§ 3, 4.
41 C.J.S., Hospitals, § 5.

Sec. 18.20.140. Purpose. The purpose of AS 18.20.140 — 18.20.220 is to make an inventory of existing hospitals and medical facilities, community mental health centers, and facilities for the mentally retarded; to survey the need for construction of hospitals and medical facilities, community mental health centers, and facilities for the mentally retarded; and to develop a program and plan of construction for each. (§ 2 ch 87 SLA 1955; am § 3 ch 63 SLA 1964)

NOTES TO DECISIONS

The moneys used to construct the Ketchikan hospital were spent for a public purpose. *Lien v. City of Ketchikan*, 383 P.2d 721 (Alaska 1963).

And that purpose does not become nonpublic when the hospital is turned over to a charitable, nonprofit corporation for operation, rather than being operated by the city itself. The public purpose remains unchanged. *Lien v. City of Ketchikan*, 383 P.2d 721 (Alaska 1963).

As public purpose depends on character of use. — The test of whether a public purpose is being served does not depend on the religious or nonreligious nature of the agency that will operate the leased property, but upon the character of the use to which the property will be put. *Lien v. City of Ketchikan*, 383 P.2d 721 (Alaska 1963).

Sec. 18.20.141. Department functions. The department shall be the sole agency for the administration of the plan as required by the federal act. The department shall develop and administer any programs necessary for compliance with the federal act. (§ 4 ch 63 SLA 1964)

Sec. 18.20.150. Duties of department. (a) For each of the following groups of facilities, hospitals and medical facilities (Group 1), community mental health centers (Group 2), and facilities for the mentally retarded (Group 3), the department shall

- (1) make a statewide inventory of existing public, nonprofit, and proprietary facilities;
- (2) survey the need for construction of these facilities;

The heading for 7 AAC 12, ARTICLE 3, is amended to read:

ARTICLE 3. GENERAL ACUTE CARE AND RURAL PRIMARY CARE HOSPITALS.

7 AAC 12.100 is repealed and readopted to read:

7 AAC 12.100. SCOPE. The provisions of 7 AAC 12.100 - 7 AAC 12.180 apply to general acute care hospitals and rural primary care hospitals that provide the services described in 7 AAC 12.105. The department will consider both types of hospitals as acute care hospitals under 7 AAC 12.100 - 7 AAC 12.180. (Eff. 11/19/83, Register 88; am __/__/__, Register _____)

Authority: AS 18.20.010

AS 18.20.060

7 AAC 12 is amended by adding a new section to read:

7 AAC 12.102. DETERMINATION OF RURAL PRIMARY CARE HOSPITAL. (a)

The department will consider a facility as a rural health primary care hospital, if the department finds that the facility

- (1) provides inpatient hospitalization for medical care of acute illness or injury;
- (2) has no more than 25 acute care beds;
- (3) is located in a rural area of no more than 10,000 residents based on calculations of the United States Bureau of Census; and
- (4) does not provide all of the following services:
 - (A) surgical service;
 - (B) anesthesia service;

(C) perinatal care;

(D) one or more of the following therapies:

(i) speech therapy;

(ii) occupational therapy;

(iii) physical therapy.

(b) If the facility provides all of the services described in 7 AAC 12.105(a), the department will consider the facility as a general acute care hospital even though it otherwise might qualify as a rural primary care hospital under this section. (Eff.

___/___/___, Register _____)

Authority: AS 18.20.010

AS 18.20.060

7 AAC 12.105 is amended to read;

7 AAC 12.105. SERVICES REQUIRED. (a) A general acute care hospital must provide surgical, anesthesia, perinatal, medical, nursing, pharmaceutical, dietetic, laundry, medical records, radiological, laboratory, and emergency care services. A general acute care hospital must also provide [EITHER] speech, occupational, or physical therapy services.

(b) A rural primary care hospital must provide the services described in (a) of this section, except that the provision of surgical, anesthesia, perinatal, speech, occupational, or physical therapy services is optional by the rural primary care hospital.
(Eff. 11/19/83, Register 88; am ___/___/___, Register _____)

(27) "general acute care hospital" means a facility that provides inpatient hospitalization for medical and surgical care of acute illness or injury, perinatal care, and other services described in 7 AAC 12.105(a) [DESCRIBED IN 7 AAC 12.100];

...

(86) "mid-level practitioner" means the following health professionals authorized to practice under AS 08:

(A) physician's assistant;

(B) advanced nurse practitioner;

, (87) "rural primary care hospital" means a facility that has been determined by the department to meet the requirements of 7 AAC 12.102. (Eff. 11/19/83, Register 88; am 5/28/92, Register 122; am __/__/__, Register _____)

Authority: AS 18.05.040

AS 18.20.010

AS 18.20.060

CA CIV PRO § 340.5
West's Ann. Cal. C.C.P. § 340.5

Page 3

**WEST'S ANNOTATED CALIFORNIA CODES
CODE OF CIVIL PROCEDURE
PART 2. OF CIVIL ACTIONS**

**TITLE 2. OF THE TIME OF COMMENCING CIVIL ACTIONS
CHAPTER 3. THE TIME OF COMMENCING ACTIONS OTHER THAN FOR THE RECOVERY OF
REAL PROPERTY**

Copr. © West Group 1997. All rights reserved.

Current through end of 1995-96 Reg. Sess. and 1st-4th Ex. Sess.

§ 340.5. Action against health care provider: three years from injury or one year from discovery; exceptions; minors

In an action for injury or death against a health care provider based upon such person's alleged professional negligence, the time for the commencement of action shall be three years after the date of injury or one year after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. In no event shall the time for commencement of legal action exceed three years unless tolled for any of the following: (1) upon proof of fraud, (2) intentional concealment, or (3) the presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person. Actions by a minor shall be commenced within three years from the date of the alleged wrongful act except that actions by a minor under the full age of six years shall be commenced within three years or prior to his eighth birthday whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which parent or guardian and defendant's insurer or health care provider have committed fraud or collusion in the failure to bring an action on behalf of the injured minor for professional negligence.

For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider;

(2) "Professional negligence" means a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital.

CREDIT(S)

1982 Main Volume

(Added by Stats.1970, c. 360, p. 772, § 1. Amended by Stats.1975, 2nd Ex.Sess., c. 1, p. 3969, § 25; Stats.1975, 2nd Ex.Sess., c. 2, p. 3991, § 1.192, eff. Sept. 24, 1975, operative Dec. 15, 1975.)

HISTORICAL AND STATUTORY NOTES

1982 Main Volume

The 1975 amendments rewrote the section which prior thereto read:

"In an action for injury or death against a physician or surgeon, dentist, registered nurse, dispensing optician,

Copr. © West 1997 No claim in orig. U.S. govt. works

CA CIV PRO s 340.5

Page 4

optometrist, registered physical therapist, podiatrist, licensed psychologist, osteopath, chiropractor, clinical laboratory bioanalyst, clinical laboratory technologist, veterinarian, or a licensed hospital as the employer of any such person, based upon such person's alleged professional negligence, or for rendering professional services without consent, or for error or omission in such person's practice, four years after the date of injury or one year after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury, whichever first occurs. This time limitation shall be tolled for any period during which such person has failed to disclose any act, error, or omission upon which such action is based and which is known or through the use of reasonable diligence should have been known to him."

For the operative effect of Stats.1975, 2d Ex.Sess., c. 2, see Historical Note under Business and Professions Code § 160.

West's Ann. Cal. C.C.P. § 340.5

CA CIV PRO § 340.5

END OF DOCUMENT

Citation
HI ST S 657-7.3
HRS S 657-7.3

Search Result

Rank 7 of 14

Database
STAT-ALL

TEXT

HAWAII REVISED STATUTES ANNOTATED
DIVISION 4. COURTS AND JUDICIAL PROCEEDINGS
TITLE 36. CIVIL REMEDIES AND DEFENSES AND SPECIAL PROCEEDINGS
CHAPTER 657. LIMITATION OF ACTIONS
PART I. PERSONAL ACTIONS

Copyright © 1988-1996 by Michie, a division of Reed Elsevier Inc. and Reed Elsevier Properties Inc. All rights reserved.
Current through End of 1996 Regular Session

§ 657-7.3 Medical torts; limitation of actions; time.

No action for injury or death against a chiropractor, clinical laboratory technologist or technician, dentist, naturopath, nurse, nursing home administrator, dispensing optician, optometrist, osteopath, physician or surgeon, physical therapist, podiatrist, psychologist, or veterinarian duly licensed or registered under the laws of the State, or a licensed hospital as the employer of any such person, based upon such person's alleged, professional negligence, or for rendering professional services without consent, or for error or omission in such person's practice, shall be brought more than two years after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury, but in any event not more than six years after the date of the alleged act or omission causing the injury or death. This six year time limitation shall be tolled for any period during which the person has failed to disclose any act, error, or omission upon which the action is based and which is known to the person.

Actions by a minor shall be commenced within six years from the date of the alleged wrongful act except the actions by a minor under the age of ten years shall be commenced within six years or by the minor's tenth birthday, whichever provides a longer period. Such time limitation shall be tolled for any minor for any period during which the parent, guardian, insurer, or health care provider has committed fraud or gross negligence, or has been a party to a collusion in the failure to bring action on behalf of the injured minor for a medical tort. The time limitation shall also be tolled for any period during which the minor's injury or illness alleged to have arisen, in whole or in part, from the alleged wrongful act or omission could not have been discovered through the use of reasonable diligence.

[L 1973, c 92, § 1; am L 1976, c 219, § 17; am L 1977, c 167, § 14; am imp L 1984, c 90, § 1; am L Sp 1986, c 2, § 15]

NOTES, REFERENCES, AND ANNOTATIONS

H R S § 657-7.3
HI ST § 657-7.3
END OF DOCUMENT

MT ST 27-2-205
MCA 27-2-205

Page 16

8
+5
13

MONTANA CODE ANNOTATED
TITLE 27. CIVIL LIABILITY, REMEDIES, AND LIMITATIONS
CHAPTER 2. STATUTES OF LIMITATIONS
PART 2. TIME LIMITS ON SPECIFIC KINDS OF ACTIONS

Copyright © 1978-1995 by the State of Montana. All rights reserved.

Current through End of 1995 Reg. Sess.

27-2-205. Actions for medical malpractice

(1) Action in tort or contract for injury or death against a physician or surgeon, dentist, registered nurse, nursing home or hospital administrator, dispensing optician, optometrist, licensed physical therapist, podiatrist, psychologist, osteopath, chiropractor, clinical laboratory bioanalyst, clinical laboratory technologist, pharmacist, veterinarian, a licensed hospital or long-term care facility, or licensed medical professional corporation, based upon alleged professional negligence or for rendering professional services without consent or for an act, error, or omission, must, except as provided in subsection (2), be commenced within 3 years after the date of injury or within 3 years after the plaintiff discovers or through the use of reasonable diligence should have discovered the injury, whichever occurs last, but in no case may an action be commenced after 5 years from the date of injury. However, this time limitation is tolled for any period during which there has been a failure to disclose any act, error, or omission upon which an action is based and that is known to the defendant or through the use of reasonable diligence subsequent to the act, error, or omission would have been known to the defendant.

(2) Notwithstanding the provisions of 27-2-401, in an action for death or injury of a minor who was under the age of 4 on the date of the minor's injury, the period of limitations in subsection (1) begins to run when the minor reaches the minor's eighth birthday or dies, whichever occurs first, and the time for commencement of the action is tolled during any period during which the minor does not reside with a parent or guardian.

History: En. Sec. 1, Ch. 328, L. 1971; amd. Sec. 1, Ch. 191, L. 1973; R.C.M. 1947, 93-2624; amd. Sec. 1, Ch. 499, L. 1987; amd. Sec. 38, Ch. 83, L. 1989; amd. Sec. 1, Ch. 16, L. 1995.

MCA 27-2-205

MT ST 27-2-205

END OF DOCUMENT

Am. Sub. H. B. No. 350

43

(B) THE CERTIFICATE OF MERIT REQUIRED FOR PURPOSES OF DIVISION (A) OF THIS SECTION FOR AN ACTION AGAINST A PARTICULAR DEFENDANT SHALL CONTAIN ONE OF THE FOLLOWING SWORN STATEMENTS:

(1) A SWORN STATEMENT OF THE PLAINTIFF OR THE PLAINTIFF'S ATTORNEY THAT THE PLAINTIFF OR THE PLAINTIFF'S ATTORNEY REVIEWED THE FACTS, RELEVANT DOCUMENTS, RECORDS, AND OTHER MATERIALS WITH A REVIEWING INDIVIDUAL, THAT THE REVIEWING INDIVIDUAL RENDERED AN OPINION THAT THERE IS A REASONABLE BASIS FOR THE ACTION AGAINST THAT DEFENDANT, AND THAT THE REVIEWING INDIVIDUAL IS WILLING TO TESTIFY AS TO THE OPINION.

(2) A SWORN STATEMENT OF THE PLAINTIFF OR THE PLAINTIFF'S ATTORNEY THAT THE PLAINTIFF INTENDS TO RELY SOLELY UPON A THEORY OF LIABILITY THAT DOES NOT REQUIRE THE SUBMISSION INTO EVIDENCE OF ANY EXPERT OPINION TO ESTABLISH A PRIMA-FACIE CASE.

(C) AS USED IN THIS SECTION, "REVIEWING INDIVIDUAL" MEANS AN INDIVIDUAL UPON WHOM THE PLAINTIFF INTENDS TO RELY AS A COMPETENT EXPERT BY VIRTUE OF THE INDIVIDUAL'S TRAINING, LICENSURE, OR PROFESSION AND WHO CAN RENDER AN ADMISSIBLE OPINION AS TO THE SUBJECT MATTER OF THE CLAIM.

Sec. 2306.012. A CAUSE OF ACTION SHALL BE CONSIDERED TO ACCRUE FOR ALL PURPOSES AS DETERMINED BY THE STATUTE OF LIMITATION THAT APPLIES TO THAT CAUSE OF ACTION.

Sec. 2306.10. ~~Am~~ (A) EXCEPT AS PROVIDED IN DIVISION (C) OF THIS SECTION, AN ACTION BASED ON A PRODUCT LIABILITY CLAIM AND AN ACTION for bodily injury or injuring personal property ~~shall be brought within two years after the cause thereof accrues~~ OF ACTION ACCRUES. EXCEPT AS PROVIDED IN DIVISIONS (B)(1) TO (4) OF THIS SECTION, A CAUSE OF ACTION ACCRUES UNDER THIS DIVISION WHEN THE INJURY OR LOSS TO PERSON OR PROPERTY OCCURS.

(B)(1) FOR PURPOSES OF DIVISION (A) OF THIS SECTION, A CAUSE OF ACTION FOR BODILY INJURY THAT IS NOT DESCRIBED IN DIVISION (B)(2), (3), OR (4) OF THIS SECTION AND THAT IS CAUSED BY EXPOSURE TO HAZARDOUS OR TOXIC CHEMICALS, ETHICAL DRUGS, OR ETHICAL MEDICAL DEVICES ACCRUES UPON THE DATE ON WHICH THE PLAINTIFF IS INFORMED BY COMPETENT MEDICAL AUTHORITY THAT THE PLAINTIFF HAS AN INJURY THAT IS RELATED TO THE EXPOSURE, OR UPON THE DATE ON WHICH BY THE EXERCISE OF REASONABLE DILIGENCE THE PLAINTIFF SHOULD HAVE KNOWN THAT THE PLAINTIFF HAS AN INJURY THAT IS RELATED TO THE EXPOSURE, WHICHEVER DATE OCCURS FIRST.

(2) For purposes of DIVISION (A) OF this section, a cause of action

2 yr
s/l.

Am. Sub. H. B. No. 350

44

for bodily injury caused by exposure to asbestos or to chromium in any of its chemical forms arises ACCRUES upon the date on which the plaintiff is informed by competent medical authority that he THE PLAINTIFF has been injured by such AN INJURY THAT IS RELATED TO THE exposure, or upon the date on which, by the exercise of reasonable diligence, he THE PLAINTIFF should have become aware KNOWN that he had been injured by THE PLAINTIFF HAS AN INJURY THAT IS RELATED TO the exposure, whichever date occurs first.

(3) For purposes of DIVISION (A) OF this section, a cause of action for bodily injury incurred by a veteran through exposure to chemical defoliants or herbicides or other causative agents, including agent orange, arises ACCRUES upon the date on which the plaintiff is informed by competent medical authority that he THE PLAINTIFF has been injured by such AN INJURY THAT IS RELATED TO THE exposure.

As used in this section, "agent orange," "causative agent," and "veteran" have the same meanings as in section 5008.31 of the Revised Code.

(4) For purposes of DIVISION (A) OF this section, a cause of action for bodily injury which may be caused by exposure to diethylstilbestrol or other nonsteroidal synthetic estrogens, including exposure before birth, arises ACCRUES upon the date on which the plaintiff learns from a licensed physician IS INFORMED BY COMPETENT MEDICAL AUTHORITY that he THE PLAINTIFF has an injury which may be THAT IS related to such THE exposure, or upon the date on which by the exercise of reasonable diligence he THE PLAINTIFF should have become aware KNOWN that he THE PLAINTIFF has an injury which may be THAT IS related to such THE exposure, whichever date occurs first.

(CX1) EXCEPT AS OTHERWISE PROVIDED IN DIVISIONS (CX2), (3), (4), (5), AND (6) OF THIS SECTION, NO CAUSE OF ACTION BASED ON A PRODUCT LIABILITY CLAIM SHALL ACCRUE AGAINST THE MANUFACTURER OR SUPPLIER OF A PRODUCT LATER THAN FIFTEEN YEARS FROM THE DATE THAT THE PRODUCT WAS DELIVERED TO ITS FIRST PURCHASER OR FIRST LESSEE WHO WAS NOT ENGAGED IN A BUSINESS IN WHICH THE PRODUCT WAS USED AS A COMPONENT IN THE PRODUCTION, CONSTRUCTION, CREATION, ASSEMBLY, OR REBUILDING OF ANOTHER PRODUCT.

(2) DIVISION (CX1) OF THIS SECTION DOES NOT APPLY IF THE MANUFACTURER OR SUPPLIER OF A PRODUCT ENGAGED IN FRAUD IN REGARD TO INFORMATION ABOUT THE PRODUCT AND THE FRAUD CONTRIBUTED TO THE HARM THAT IS ALLEGED IN A PRODUCT LIABILITY CLAIM.

(3) DIVISION (CX1) OF THIS SECTION DOES NOT BAR AN ACTION BASED ON A PRODUCT LIABILITY CLAIM AGAINST A MANUFACTURER OR SUPPLIER OF A PRODUCT WHO MADE AN EXPRESS, WRITTEN WARRANTY AS TO THE SAFETY OF THE PRODUCT THAT WAS FOR A PERIOD LONGER THAN FIFTEEN YEARS AND THAT HAS NOT EXPIRED IN ACCORDANCE WITH THE TERMS OF THAT WARRANTY.

(4) IF THE CAUSE OF ACTION RELATIVE TO A PRODUCT LIABILITY CLAIM ACCRUES DURING THE FIFTEEN-YEAR PE-

RIOD DESCRIBED IN DIVISION (CX1) OF THIS SECTION BUT LESS THAN TWO YEARS PRIOR TO THE EXPIRATION OF THAT PERIOD. AN ACTION BASED ON THE PRODUCT LIABILITY CLAIM MAY BE COMMENCED WITHIN TWO YEARS AFTER THE CAUSE OF ACTION ACCRUES.

(5) IF A CAUSE OF ACTION RELATIVE TO A PRODUCT LIABILITY CLAIM ACCRUES DURING THE FIFTEEN-YEAR PERIOD DESCRIBED IN DIVISION (CX1) OF THIS SECTION AND THE CLAIMANT CANNOT COMMENCE AN ACTION DURING THAT PERIOD DUE TO A DISABILITY DESCRIBED IN SECTION 2308.16 OF THE REVISED CODE, AN ACTION BASED ON THE PRODUCT LIABILITY CLAIM MAY BE COMMENCED WITHIN TWO YEARS AFTER THE DISABILITY IS REMOVED.

(6)(a) DIVISION (CX1) OF THIS SECTION DOES NOT BAR AN ACTION BASED ON A PRODUCT LIABILITY CLAIM AGAINST A MANUFACTURER OR SUPPLIER OF A PRODUCT IF ALL OF THE FOLLOWING APPLY:

(i) THE ACTION IS FOR BODILY INJURY.

(ii) THE PRODUCT INVOLVED IS A SUBSTANCE DESCRIBED IN DIVISION (B) OF THIS SECTION.

(iii) THE BODILY INJURY RESULTS FROM EXPOSURE TO THE PRODUCT DURING THE FIFTEEN-YEAR PERIOD DESCRIBED IN DIVISION (CX1) OF THIS SECTION.

(b) IF DIVISION (CX6)(a) OF THIS SECTION APPLIES, THE CAUSE OF ACTION SHALL ACCRUE UPON THE DATE ON WHICH THE CLAIMANT IS INFORMED BY COMPETENT MEDICAL AUTHORITY THAT THE BODILY INJURY WAS RELATED TO THE EXPOSURE TO THE PRODUCT, OR UPON THE DATE ON WHICH BY THE EXERCISE OF REASONABLE DILIGENCE THE CLAIMANT SHOULD HAVE KNOWN THAT THE BODILY INJURY WAS RELATED TO THE EXPOSURE TO THE PRODUCT, WHICHEVER DATE OCCURS FIRST. THE ACTION BASED ON THE PRODUCT LIABILITY CLAIM SHALL BE COMMENCED WITHIN TWO YEARS AFTER THE CAUSE OF ACTION ACCRUES AND SHALL NOT BE COMMENCED MORE THAN TWO YEARS AFTER THE CAUSE OF ACTION ACCRUES.

(c) THIS SECTION DOES NOT CREATE A NEW CAUSE OF ACTION OR SUBSTANTIVE LEGAL RIGHT AGAINST ANY PERSON INVOLVING A PRODUCT LIABILITY CLAIM.

(d) AS USED IN THIS SECTION:

(1) "AGENT ORANGE," "CAUSATIVE AGENT," AND "VETERAN" HAVE THE SAME MEANINGS AS IN SECTION 5908.21 OF THE REVISED CODE.

(2) "ETHICAL DRUG," "ETHICAL MEDICAL DEVICE," "MANUFACTURER," "PRODUCT," AND "SUPPLIER" HAVE THE SAME MEANINGS AS IN SECTION 2307.71 OF THE REVISED CODE.

(3) "HARM" MEANS INJURY, DEATH, OR LOSS TO PERSON OR PROPERTY.

(4) "PRODUCT LIABILITY CLAIM" MEANS A CLAIM THAT SEEKS TO RECOVER COMPENSATORY DAMAGES FROM A

minority

*15
← 2872
000*

Am. Sub. H. B. No. 350

46

MANUFACTURER OR SUPPLIER FOR HARM THAT ALLEGEDLY AROSE FROM THE DESIGN, FORMULATION, PRODUCTION, CONSTRUCTION, CREATION, ASSEMBLY, REBUILDING, TESTING, OR MARKETING OF A PRODUCT, FROM A WARNING, INSTRUCTION, OR LACK OF WARNING OR INSTRUCTION ASSOCIATED WITH A PRODUCT, OR FROM A FAILURE OF A PRODUCT TO CONFORM TO A RELEVANT REPRESENTATION OR WARRANTY.

(F) THIS SECTION SHALL BE CONSIDERED TO BE PURELY REMEDIAL IN OPERATION AND SHALL BE APPLIED IN A REMEDIAL MANNER IN ANY CIVIL ACTION COMMENCED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, IN WHICH THIS SECTION IS RELEVANT, REGARDLESS OF WHEN THE CAUSE OF ACTION ACCRUED AND NOTWITHSTANDING ANY OTHER SECTION OF THE REVISED CODE OR PRIOR RULE OF LAW OF THIS STATE, BUT SHALL NOT BE CONSTRUED TO APPLY TO ANY CIVIL ACTION PENDING PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

medical

Sec. 2305.11. (A) An (1) SUBJECT TO DIVISION (AX2) OF THIS SECTION, AN action for libel, slander, malicious prosecution, or false imprisonment, an action for malpractice other than an action upon a medical, dental, optometric, or chiropractic claim, or an action upon a statute for a penalty or forfeiture shall be commenced within one year after the cause of action accrued ACCRUES, provided that an action by an employee for the payment of unpaid minimum wages, unpaid overtime compensation, or liquidated damages by reason of the nonpayment of minimum wages or overtime compensation shall be commenced within two years after the cause of action accrued ACCRUES.

(2)(a) EXCEPT AS PROVIDED IN DIVISIONS (AX2)(b) AND (c) OF THIS SECTION, NO CAUSE OF ACTION FOR MALPRACTICE AS DESCRIBED IN DIVISION (AX1) OF THIS SECTION SHALL ACCRUE LATER THAN SIX YEARS FROM THE DATE OF THE OCCURRENCE OF THE ACT OR OMISSION CONSTITUTING THE ALLEGED BASIS OF THE CLAIM OF MALPRACTICE.

(b) DIVISION (AX2)(a) OF THIS SECTION IS NOT AVAILABLE AS AN AFFIRMATIVE DEFENSE TO A DEFENDANT IN AN ACTION FOR MALPRACTICE AS DESCRIBED IN DIVISION (AX1) OF THIS SECTION IF THE DEFENDANT ENGAGES IN FRAUD IN REGARD TO ANY RELEVANT FACT OR OTHER INFORMATION THAT PERTAINS TO THE ACT OR OMISSION CONSTITUTING THE ALLEGED BASIS OF THE CLAIM OF MALPRACTICE.

(c) IF A CAUSE OF ACTION RELATIVE TO AN ACTION FOR MALPRACTICE AS DESCRIBED IN DIVISION (AX1) OF THIS SECTION ACCRUES DURING THE SIX-YEAR PERIOD DESCRIBED IN DIVISION (A) (2)(a) OF THIS SECTION AND THE CLAIMANT CANNOT COMMENCE THE ACTION DURING THAT PERIOD DUE TO A DISABILITY DESCRIBED IN SECTION 2305.16 OF THE REVISED CODE, AN ACTION FOR MALPRACTICE MAY BE COMMENCED WITHIN TWO YEARS AFTER THE DISABILITY IS REMOVED.

*6 yr
sl. repose*

20 yr old

→

Am. Sub. H. B. No. 350

47

(B)(1) Subject to ~~division~~ DIVISIONS (B)(2) AND (3) of this section, an action upon a medical, dental, optometric, or chiropractic claim shall be commenced within one year after the cause of action ~~accrues~~ ACCRUES, except that, if prior to the expiration of that one-year period, a claimant who allegedly possesses a medical, dental, optometric, or chiropractic claim gives to the person who is the subject of that claim written notice that the claimant is considering bringing an action upon that claim, that action may be commenced against the person notified at any time within one hundred eighty days after the notice is so given.

(2) ~~Sweep as~~ THE PROVISIONS OF DIVISION (B)(1) OF THIS SECTION SHALL BE TOLLED AS to persons within the age of minority or of unsound mind, as provided by section 2306.16 of the Revised Code.

(3)(a) ~~in~~ EXCEPT AS PROVIDED IN DIVISIONS (B)(3)(b), (c), OR (d) OF THIS SECTION, no event shall any CAUSE OF action upon a medical, dental, optometric, or chiropractic claim be commenced ~~accrue~~ SHALL ACCRUE LATER than four SIX years after the occurrence of the act or omission constituting the alleged basis of the medical, dental, optometric, or chiropractic claim.

(b) If an action upon a medical, dental, optometric, or chiropractic claim is not commenced within four years after the occurrence of the act or omission constituting the alleged basis of the medical, dental, optometric, or chiropractic claim, then, notwithstanding the time when the action is that claim is barred:

(b) DIVISION (B)(3)(a) OF THIS SECTION IS NOT AVAILABLE AS AN AFFIRMATIVE DEFENSE TO A DEFENDANT IN AN ACTION UPON A MEDICAL, DENTAL, OPTOMETRIC, OR CHIROPRACTIC CLAIM AS DESCRIBED IN DIVISION (B)(1) OF THIS SECTION IF THE DEFENDANT ENGAGES IN FRAUD IN REGARD TO ANY RELEVANT FACT OR OTHER INFORMATION THAT PERTAINS TO THE ACT OR OMISSION CONSTITUTING THE ALLEGED BASIS OF THE MEDICAL, DENTAL, OPTOMETRIC, OR CHIROPRACTIC CLAIM.

(c) NOTWITHSTANDING AN OTHERWISE APPLICABLE PERIOD OF LIMITATION SPECIFIED IN THIS CHAPTER, IF A PLAINTIFF DISCOVERS AN INJURY THAT IS THE BASIS OF A MEDICAL, DENTAL, OPTOMETRIC, OR CHIROPRACTIC CLAIM WITHIN THE SIX-YEAR PERIOD DESCRIBED IN DIVISION (B)(3)(a) OF THIS SECTION, BUT LESS THAN ONE YEAR PRIOR TO THE EXPIRATION OF THAT PERIOD, AN ACTION BASED ON THE MEDICAL, DENTAL, OPTOMETRIC, OR CHIROPRACTIC CLAIM MAY BE COMMENCED WITHIN ONE YEAR AFTER THE DATE OF DISCOVERY OF THAT INJURY.

(d) NOTWITHSTANDING AN OTHERWISE APPLICABLE PERIOD OF LIMITATION SPECIFIED IN THIS CHAPTER, IF A MEDICAL, DENTAL, OPTOMETRIC, OR CHIROPRACTIC CLAIM ACCRUES DURING THE SIX-YEAR PERIOD DESCRIBED IN DIVISION (B)(3)(a) OF THIS SECTION AND THE PLAINTIFF CANNOT COMMENCE AN ACTION DURING THE PERIOD DUE TO A DISABILITY DESCRIBED IN SECTION 2306.16 OF THE REVISED CODE, AN ACTION BASED ON THE MEDICAL, DENTAL, OPTOMETRIC, OR CHIROPRACTIC CLAIM MAY BE COMMENCED

6 yr
discovery

WITHIN ONE YEAR AFTER THE REMOVAL OF THAT DISABILITY.

(C) A civil action for unlawful abortion pursuant to section 2919.12 of the Revised Code, a civil action authorized by division (H) of section 2317.56 of the Revised Code, a civil action pursuant to division (B)(1) or (2) of section 2307.51 of the Revised Code for performing a dilation and extraction procedure or attempting to perform a dilation and extraction procedure in violation of section 2919.15 of the Revised Code, and a civil action pursuant to division (B)(1) or (2) of section 2307.52 of the Revised Code for terminating or attempting to terminate a human pregnancy after viability in violation of division (A) or (B) of section 2919.17 of the Revised Code shall be commenced within one year after the performance or inducement of the abortion, within one year after the attempt to perform or induce the abortion in violation of division (A) or (B) of section 2919.17 of the Revised Code, within one year after the performance of the dilation and extraction procedure, or, in the case of a civil action pursuant to division (B)(2) of section 2307.51 of the Revised Code, within one year after the attempt to perform the dilation and extraction procedure.

(D) As used in this section:

(1) "Hospital" includes any person, corporation, association, board, or authority that is responsible for the operation of any hospital licensed or registered in the state, including, but not limited to, those which are owned or operated by the state, political subdivisions, any person, any corporation, or any combination thereof. "Hospital" also includes any person, corporation, association, board, entity, or authority that is responsible for the operation of any clinic that employs a full-time staff of physicians practicing in more than one recognized medical specialty and rendering advice, diagnosis, care, and treatment to individuals. "Hospital" does not include any hospital operated by the government of the United States or any of its branches.

(2) "Physician" means a person who is licensed to practice medicine and surgery or osteopathic medicine and surgery by the state medical board or a person who otherwise is authorized to practice medicine and surgery or osteopathic medicine and surgery in this state.

(3) "Medical claim" means any claim that is asserted in any civil action against a physician, podiatrist, or hospital, against any employee or agent of a physician, podiatrist, or hospital, or against a registered nurse, MIDWIFE, or physical therapist, and that arises out of the medical diagnosis, care, or treatment of any person. "Medical claim" includes derivative claims for relief that arise from the medical diagnosis, care, or treatment of a person AND A CLAIM THAT IS ASSERTED IN A CIVIL ACTION AGAINST A HOSPITAL AND THAT IS BASED ON NEGLIGENT CREDENTIALING.

(4) "Podiatrist" means any person who is licensed to practice podiatric medicine and surgery by the state medical board.

(5) "Dentist" means any person who is licensed to practice dentistry by the state dental board.

(6) "Dental claim" means any claim that is asserted in any civil action against a dentist, or against any employee or agent of a dentist, and that

arises out of a dental operation or the dental diagnosis, care, or treatment of any person. "Dental claim" includes derivative claims for relief that arise from a dental operation or the dental diagnosis, care, or treatment of a person.

(7) "Derivative claims for relief" include, but are not limited to, claims of a parent, guardian, custodian, or spouse of an individual who was the subject of any medical diagnosis, care, or treatment, dental diagnosis, care, or treatment, dental operation, optometric diagnosis, care, or treatment, or chiropractic diagnosis, care, or treatment, that arise from that diagnosis, care, treatment, or operation, and that seek the recovery of damages for any of the following:

(a) Loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education, or any other intangible loss that was sustained by the parent, guardian, custodian, or spouse;

(b) Expenditures of the parent, guardian, custodian, or spouse for medical, dental, optometric, or chiropractic care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations provided to the individual who was the subject of the medical diagnosis, care, or treatment, the dental diagnosis, care, or treatment, the dental operation, the optometric diagnosis, care, or treatment, or the chiropractic diagnosis, care, or treatment.

(8) "Registered nurse" means any person who is licensed to practice nursing as a registered nurse by the state board of nursing.

(9) "Chiropractic claim" means any claim that is asserted in any civil action against a chiropractor, or against any employee or agent of a chiropractor, and that arises out of the chiropractic diagnosis, care, or treatment of any person. "Chiropractic claim" includes derivative claims for relief that arise from the chiropractic diagnosis, care, or treatment of a person.

(10) "Chiropractor" means any person who is licensed to practice chiropractic by the chiropractic examining board.

(11) "Optometric claim" means any claim that is asserted in any civil action against an optometrist, or against any employee or agent of an optometrist, and that arises out of the optometric diagnosis, care, or treatment of any person. "Optometric claim" includes derivative claims for relief that arise from the optometric diagnosis, care, or treatment of a person.

(12) "Optometrist" means any person licensed to practice optometry by the state board of optometry.

(13) "Physical therapist" means any person who is licensed to practice physical therapy under Chapter 4755, of the Revised Code.

Sec. 2306.112. (A) AN ACTION FOR MALPRACTICE AGAINST A PSYCHOLOGIST, SOCIAL WORKER, OR CLINICAL COUNSELOR SHALL BE COMMENCED WITHIN ONE YEAR AFTER THE CAUSE OF ACTION ACCRUES.

(B) AN ACTION UPON A PSYCHOLOGICAL, SOCIAL WORK, OR CLINICAL COUNSELING CLAIM SHALL BE COMMENCED WITHIN ONE YEAR AFTER THE CAUSE OF ACTION ACCRUED,

(121st General Assembly)
(Amended Substitute House Bill Number 350)

AN ACT

To amend sections 109.35, 163.17, 723.01, 1343.03, 1701.95, 1707.01, 1775.14, 1901.041, 1901.17, 1901.18, 1901.181, 1901.20, 1905.032, 2117.06, 2125.01, 2125.02, 2125.04, 2305.01, 2305.10, 2305.11, 2305.16, 2305.25, 2305.251, 2305.25, 2305.27, 2305.28, 2307.31, 2307.32, 2307.33, 2307.30, 2307.61, 2307.71, 2307.72, 2307.73, 2307.75, 2307.78, 2307.80, 2315.01, 2315.18, 2315.19, 2315.20, 2315.21, 2317.45, 2317.62, 2322.51, 2321.02, 2743.18, 2743.19, 2744.01, 2744.02, 2744.03, 2744.04, 2744.05, 2744.06, 2112.219, 3701.19, 3722.03, 4112.02, 4112.14, 4112.30, 4112.32, 4171.10, 4209.18, 4207.07, 4512.202, 4522.27, 4602.62, 5111.51, 5301.36, and 5301.37; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 2307.31 (2307.32), 2307.32 (2307.33), 2307.33 (2307.331), and 2307.30 (2307.301); to enact new sections 2305.131, 2307.31, and 2307.30 and sections 901.52, 1707.432, 1707.433, 1707.434, 1707.435, 1707.436, 1707.437, 1707.438, 1901.202, 1907.202, 2101.163, 2151.542, 2303.202, 2305.011, 2305.012, 2305.113, 2305.252, 2305.331, 2305.332, 2307.43, 2307.731, 2307.732, 2317.45, 2322.54, and 2322.50; to repeal sections 1901.17 and 1901.181 of the Revised Code, as amended by this act, effective July 1, 1997; and to repeal sections 2305.131, 2305.27, 2307.42, 2307.43, and 2309.01 of the Revised Code; to repeal sections 1901.041, 1901.18, 1901.20, 1901.202, 1905.032, and 1907.262 of the Revised Code, as

Am. Sub. H. B. No. 350

2

amended by Sections 1 and 2 of this act, effective July 1, 1997; and to amend section 1901.18 of the Revised Code, as amended by Am. Sub. H.B. 438 of the 121st General Assembly; and to amend Section 3 of Am. Sub. H.B. 438 of the 121st General Assembly relative to changes in the laws pertaining to tort and other civil actions.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 109.36, 163.17, 723.01, 1243.03, 1701.95, 1707.01, 1773.14, 1901.041, 1901.17, 1901.18, 1901.181, 1901.20, 1906.032, 2117.06, 2125.01, 2125.02, 2125.04, 2306.01, 2306.10, 2306.11, 2306.16, 2306.25, 2306.251, 2306.36, 2306.37, 2306.38, 2307.31, 2307.32, 2307.33, 2307.60, 2307.61, 2307.71, 2307.72, 2307.73, 2307.75, 2307.78, 2307.80, 2315.01, 2315.18, 2315.19, 2315.20, 2315.21, 2317.45, 2317.62, 2323.51, 2501.02, 2743.18, 2743.19, 2744.01, 2744.02, 2744.03, 2744.04, 2744.05, 2744.06, 3112.219, 3701.19, 3722.06, 4112.02, 4112.14, 4112.99, 4113.52, 4171.10, 4399.18, 4507.07, 4512.262, 4522.27, 4909.42, 5111.81, 5501.36, and 5501.37 be amended, that sections 2307.31 (2307.32), 2307.32 (2307.33), 2307.33 (2307.331), and 2307.80 (2307.801) be amended for the purpose of adopting new section numbers as indicated in parentheses, and that new sections 2306.181, 2307.31, and 2307.80 and sections 901.52, 1707.432, 1707.433, 1707.434, 1707.435, 1707.436, 1707.437, 1707.438, 1901.262, 1907.202, 2101.162, 2151.542, 2308.202, 2306.011, 2306.012, 2306.112, 2306.252, 2306.261, 2306.262, 2307.48, 2307.791, 2307.792, 2317.46, 2323.54, and 2323.99 of the Revised Code be enacted to read as follows:

Sec. 109.36. As used in this section and sections 109.361 to 109.366 of the Revised Code:

(A)(1) "Officer or employee" means any OF THE FOLLOWING:

(a) A person who, at the time a cause of action against him THE PERSON arises, is serving in an elected or appointed office or position with the state or is employed by the state any.

(b) A person that, at the time a cause of action against the person, partnership, or corporation arises, is rendering medical, nursing, dental, podiatric, optometric, physical therapeutic, psychiatric, or psychological services pursuant to a personal services contract or purchased service contract with a department, agency, or institution of the state or.

(c) A PERSON THAT, AT THE TIME A CAUSE OF ACTION AGAINST THE PERSON, PARTNERSHIP, OR CORPORATION ARISES, IS RENDERING PEER REVIEW, UTILIZATION REVIEW, OR DRUG UTILIZATION REVIEW SERVICES IN RELATION TO MEDICAL, NURSING, DENTAL, PODIATRIC, OPTOMETRIC, PHYSICAL THERAPEUTIC, PSYCHIATRIC, OR PSYCHOLOGICAL SERVICES PURSUANT TO A PERSONAL SERVICES CON-

Am. Sub. H. B. No. 350

43

(B) THE CERTIFICATE OF MERIT REQUIRED FOR PURPOSES OF DIVISION (A) OF THIS SECTION FOR AN ACTION AGAINST A PARTICULAR DEFENDANT SHALL CONTAIN ONE OF THE FOLLOWING SWORN STATEMENTS:

(1) A SWORN STATEMENT OF THE PLAINTIFF OR THE PLAINTIFF'S ATTORNEY THAT THE PLAINTIFF OR THE PLAINTIFF'S ATTORNEY REVIEWED THE FACTS, RELEVANT DOCUMENTS, RECORDS, AND OTHER MATERIALS WITH A REVIEWING INDIVIDUAL THAT THE REVIEWING INDIVIDUAL RENDERED AN OPINION THAT THERE IS A REASONABLE BASIS FOR THE ACTION AGAINST THAT DEFENDANT, AND THAT THE REVIEWING INDIVIDUAL IS WILLING TO TESTIFY AS TO THE OPINION.

(2) A SWORN STATEMENT OF THE PLAINTIFF OR THE PLAINTIFF'S ATTORNEY THAT THE PLAINTIFF INTENDS TO RELY SOLELY UPON A THEORY OF LIABILITY THAT DOES NOT REQUIRE THE SUBMISSION INTO EVIDENCE OF ANY EXPERT OPINION TO ESTABLISH A PRIMA-FACIE CASE.

(C) AS USED IN THIS SECTION, "REVIEWING INDIVIDUAL" MEANS AN INDIVIDUAL UPON WHOM THE PLAINTIFF INTENDS TO RELY AS A COMPETENT EXPERT BY VIRTUE OF THE INDIVIDUAL'S TRAINING, LICENSURE, OR PROFESSION AND WHO CAN RENDER AN ADMISSIBLE OPINION AS TO THE SUBJECT MATTER OF THE CLAIM.

Sec. 2305.012. A CAUSE OF ACTION SHALL BE CONSIDERED TO ACCRUE FOR ALL PURPOSES AS DETERMINED BY THE STATUTE OF LIMITATION THAT APPLIES TO THAT CAUSE OF ACTION.

Sec. 2305.10. ~~Am~~ (A) EXCEPT AS PROVIDED IN DIVISION (C) OF THIS SECTION, AN ACTION BASED ON A PRODUCT LIABILITY CLAIM AND AN ACTION for bodily injury or injuring personal property shall be brought within two years after the cause thereof accrues. OF ACTION ACCRUES. EXCEPT AS PROVIDED IN DIVISIONS (B)(1) TO (4) OF THIS SECTION, A CAUSE OF ACTION ACCRUES UNDER THIS DIVISION WHEN THE INJURY OR LOSS TO PERSON OR PROPERTY OCCURS.

(B)(1) FOR PURPOSES OF DIVISION (A) OF THIS SECTION, A CAUSE OF ACTION FOR BODILY INJURY THAT IS NOT DESCRIBED IN DIVISION (B)(2), (3), OR (4) OF THIS SECTION AND THAT IS CAUSED BY EXPOSURE TO HAZARDOUS OR TOXIC CHEMICALS, ETHICAL DRUGS, OR ETHICAL MEDICAL DEVICES ACCRUES UPON THE DATE ON WHICH THE PLAINTIFF IS INFORMED BY COMPETENT MEDICAL AUTHORITY THAT THE PLAINTIFF HAS AN INJURY THAT IS RELATED TO THE EXPOSURE, OR UPON THE DATE ON WHICH BY THE EXERCISE OF REASONABLE DILIGENCE THE PLAINTIFF SHOULD HAVE KNOWN THAT THE PLAINTIFF HAS AN INJURY THAT IS RELATED TO THE EXPOSURE, WHICHEVER DATE OCCURS FIRST.

(2) For purposes of DIVISION (A) OF this section, a cause of action

Am. Sub. H. B. No. 350

44

for bodily injury caused by exposure to asbestos or to chromium in any of its chemical forms arises ACCRUES upon the date on which the plaintiff is informed by competent medical authority that he THE PLAINTIFF has been injured by such AN INJURY THAT IS RELATED TO THE exposure, or upon the date on which, by the exercise of reasonable diligence, he THE PLAINTIFF should have become aware KNOWN that he had been injured by THE PLAINTIFF HAS AN INJURY THAT IS RELATED TO the exposure, whichever date occurs first.

(3) For purposes of DIVISION (A) OF this section, a cause of action for bodily injury incurred by a veteran through exposure to chemical defoliants or herbicides or other causative agents, including agent orange, arises ACCRUES upon the date on which the plaintiff is informed by competent medical authority that he THE PLAINTIFF has been injured by such AN INJURY THAT IS RELATED TO THE exposure.

As used in this section, "agent orange," "causative agent," and "veteran" have the same meanings as in section 5008-21 of the Revised Code.

(4) For purposes of DIVISION (A) OF this section, a cause of action for bodily injury which may be caused by exposure to diethylstilbestrol or other nonsteroidal synthetic estrogens, including exposure before birth, arises ACCRUES upon the date on which the plaintiff learns from a licensed physician IS INFORMED BY COMPETENT MEDICAL AUTHORITY that he THE PLAINTIFF has an injury which may be THAT IS related to such THE exposure, or upon the date on which by the exercise of reasonable diligence he THE PLAINTIFF should have become aware KNOWN that he THE PLAINTIFF has an injury which may be THAT IS related to such THE exposure, whichever date occurs first.

(CX1) EXCEPT AS OTHERWISE PROVIDED IN DIVISIONS (C)(2), (3), (4), (5), AND (6) OF THIS SECTION, NO CAUSE OF ACTION BASED ON A PRODUCT LIABILITY CLAIM SHALL ACCRUE AGAINST THE MANUFACTURER OR SUPPLIER OF A PRODUCT LATER THAN FIFTEEN YEARS FROM THE DATE THAT THE PRODUCT WAS DELIVERED TO ITS FIRST PURCHASER OR FIRST LESSEE WHO WAS NOT ENGAGED IN A BUSINESS IN WHICH THE PRODUCT WAS USED AS A COMPONENT IN THE PRODUCTION, CONSTRUCTION, CREATION, ASSEMBLY, OR REBUILDING OF ANOTHER PRODUCT.

(2) DIVISION (CX1) OF THIS SECTION DOES NOT APPLY IF THE MANUFACTURER OR SUPPLIER OF A PRODUCT ENGAGED IN FRAUD IN REGARD TO INFORMATION ABOUT THE PRODUCT AND THE FRAUD CONTRIBUTED TO THE HARM THAT IS ALLEGED IN A PRODUCT LIABILITY CLAIM.

(3) DIVISION (CX1) OF THIS SECTION DOES NOT BAR AN ACTION BASED ON A PRODUCT LIABILITY CLAIM AGAINST A MANUFACTURER OR SUPPLIER OF A PRODUCT WHO MADE AN EXPRESS, WRITTEN WARRANTY AS TO THE SAFETY OF THE PRODUCT THAT WAS FOR A PERIOD LONGER THAN FIFTEEN YEARS AND THAT HAS NOT EXPIRED IN ACCORDANCE WITH THE TERMS OF THAT WARRANTY.

(4) IF THE CAUSE OF ACTION RELATIVE TO A PRODUCT LIABILITY CLAIM ACCRUES DURING THE FIFTEEN-YEAR PE-

Am. Sub. H. B. No. 350

45

RIOD DESCRIBED IN DIVISION (CX1) OF THIS SECTION BUT LESS THAN TWO YEARS PRIOR TO THE EXPIRATION OF THAT PERIOD. AN ACTION BASED ON THE PRODUCT LIABILITY CLAIM MAY BE COMMENCED WITHIN TWO YEARS AFTER THE CAUSE OF ACTION ACCRUES.

(5) IF A CAUSE OF ACTION RELATIVE TO A PRODUCT LIABILITY CLAIM ACCRUES DURING THE FIFTEEN-YEAR PERIOD DESCRIBED IN DIVISION (CX1) OF THIS SECTION AND THE CLAIMANT CANNOT COMMENCE AN ACTION DURING THAT PERIOD DUE TO A DISABILITY DESCRIBED IN SECTION 2308.16 OF THE REVISED CODE, AN ACTION BASED ON THE PRODUCT LIABILITY CLAIM MAY BE COMMENCED WITHIN TWO YEARS AFTER THE DISABILITY IS REMOVED.

(6)(a) DIVISION (CX1) OF THIS SECTION DOES NOT BAR AN ACTION BASED ON A PRODUCT LIABILITY CLAIM AGAINST A MANUFACTURER OR SUPPLIER OF A PRODUCT IF ALL OF THE FOLLOWING APPLY:

(i) THE ACTION IS FOR BODILY INJURY.

(ii) THE PRODUCT INVOLVED IS A SUBSTANCE DESCRIBED IN DIVISION (B) OF THIS SECTION.

(iii) THE BODILY INJURY RESULTS FROM EXPOSURE TO THE PRODUCT DURING THE FIFTEEN-YEAR PERIOD DESCRIBED IN DIVISION (CX1) OF THIS SECTION.

(b) IF DIVISION (CX)(6)(a) OF THIS SECTION APPLIES, THE CAUSE OF ACTION SHALL ACCRUE UPON THE DATE ON WHICH THE CLAIMANT IS INFORMED BY COMPETENT MEDICAL AUTHORITY THAT THE BODILY INJURY WAS RELATED TO THE EXPOSURE TO THE PRODUCT, OR UPON THE DATE ON WHICH BY THE EXERCISE OF REASONABLE DILIGENCE THE CLAIMANT SHOULD HAVE KNOWN THAT THE BODILY INJURY WAS RELATED TO THE EXPOSURE TO THE PRODUCT, WHICHEVER DATE OCCURS FIRST. THE ACTION BASED ON THE PRODUCT LIABILITY CLAIM SHALL BE COMMENCED WITHIN TWO YEARS AFTER THE CAUSE OF ACTION ACCRUES AND SHALL NOT BE COMMENCED MORE THAN TWO YEARS AFTER THE CAUSE OF ACTION ACCRUES.

(c) THIS SECTION DOES NOT CREATE A NEW CAUSE OF ACTION OR SUBSTANTIVE LEGAL RIGHT AGAINST ANY PERSON INVOLVING A PRODUCT LIABILITY CLAIM.

(d) AS USED IN THIS SECTION:

(1) "AGENT ORANGE," "CAUSATIVE AGENT," AND "VETERAN" HAVE THE SAME MEANINGS AS IN SECTION 2308.21 OF THE REVISED CODE.

(2) "ETHICAL DRUG," "ETHICAL MEDICAL DEVICE," "MANUFACTURER," "PRODUCT," AND "SUPPLIER" HAVE THE SAME MEANINGS AS IN SECTION 2307.71 OF THE REVISED CODE.

(3) "HARM" MEANS INJURY, DEATH, OR LOSS TO PERSON OR PROPERTY.

(4) "PRODUCT LIABILITY CLAIM" MEANS A CLAIM THAT SEEKS TO RECOVER COMPENSATORY DAMAGES FROM A

Am. Sub. H. B. No. 350

46

MANUFACTURER OR SUPPLIER FOR HARM THAT ALLEGEDLY AROSE FROM THE DESIGN, FORMULATION, PRODUCTION, CONSTRUCTION, CREATION, ASSEMBLY, REBUILDING, TESTING, OR MARKETING OF A PRODUCT, FROM A WARNING, INSTRUCTION, OR LACK OF WARNING OR INSTRUCTION ASSOCIATED WITH A PRODUCT, OR FROM A FAILURE OF A PRODUCT TO CONFORM TO A RELEVANT REPRESENTATION OR WARRANTY.

(F) THIS SECTION SHALL BE CONSIDERED TO BE PURELY REMEDIAL IN OPERATION AND SHALL BE APPLIED IN A REMEDIAL MANNER IN ANY CIVIL ACTION COMMENCED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, IN WHICH THIS SECTION IS RELEVANT, REGARDLESS OF WHEN THE CAUSE OF ACTION ACCRUED AND NOTWITHSTANDING ANY OTHER SECTION OF THE REVISED CODE OR PRIOR RULE OF LAW OF THIS STATE, BUT SHALL NOT BE CONSTRUED TO APPLY TO ANY CIVIL ACTION PENDING PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

Sec. 2305.11. (A) ~~Am~~ (1) SUBJECT TO DIVISION (AX2) OF THIS SECTION, AN action for libel, slander, malicious prosecution, or false imprisonment, an action for malpractice other than an action upon a medical, dental, optometric, or chiropractic claim, or an action upon a statute for a penalty or forfeiture shall be commenced within one year after the cause of action accrued ACCRUES, provided that an action by an employee for the payment of unpaid minimum wages, unpaid overtime compensation, or liquidated damages by reason of the nonpayment of minimum wages or overtime compensation shall be commenced within two years after the cause of action accrued ACCRUES.

(X(a)) EXCEPT AS PROVIDED IN DIVISIONS (AX2)(b) AND (c) OF THIS SECTION, NO CAUSE OF ACTION FOR MALPRACTICE AS DESCRIBED IN DIVISION (AX1) OF THIS SECTION SHALL ACCRUE LATER THAN SIX YEARS FROM THE DATE OF THE OCCURRENCE OF THE ACT OR OMISSION CONSTITUTING THE ALLEGED BASIS OF THE CLAIM OF MALPRACTICE.

(b) DIVISION (AX2)(a) OF THIS SECTION IS NOT AVAILABLE AS AN AFFIRMATIVE DEFENSE TO A DEFENDANT IN AN ACTION FOR MALPRACTICE AS DESCRIBED IN DIVISION (AX1) OF THIS SECTION IF THE DEFENDANT ENGAGES IN FRAUD IN REGARD TO ANY RELEVANT FACT OR OTHER INFORMATION THAT PERTAINS TO THE ACT OR OMISSION CONSTITUTING THE ALLEGED BASIS OF THE CLAIM OF MALPRACTICE.

(c) IF A CAUSE OF ACTION RELATIVE TO AN ACTION FOR MALPRACTICE AS DESCRIBED IN DIVISION (AX1) OF THIS SECTION ACCRUES DURING THE SIX-YEAR PERIOD DESCRIBED IN DIVISION (A) X(a) OF THIS SECTION AND THE CLAIMANT CANNOT COMMENCE THE ACTION DURING THAT PERIOD DUE TO A DISABILITY DESCRIBED IN SECTION 2305.16 OF THE REVISED CODE, AN ACTION FOR MALPRACTICE MAY BE COMMENCED WITHIN TWO YEARS AFTER THE DISABILITY IS REMOVED.

Am. Sub. H. B. No. 350

47

(B)(1) Subject to division DIVISIONS (B)(2) AND (3) of this section, an action upon a medical, dental, optometric, or chiropractic claim shall be commenced within one year after the cause of action accrued ACCRUES, except that, if prior to the expiration of that one-year period, a claimant who allegedly possesses a medical, dental, optometric, or chiropractic claim gives to the person who is the subject of that claim written notice that the claimant is considering bringing an action upon that claim, that action may be commenced against the person notified at any time within one hundred eighty days after the notice is so given.

(2) Except as THE PROVISIONS OF DIVISION (B)(1) OF THIS SECTION SHALL BE TOLLED AS to persons within the age of minority or of unsound mind, as provided by section 2306.16 of the Revised Code,

(3)(a) ~~IN~~ EXCEPT AS PROVIDED IN DIVISIONS (B)(3)(b), (c), OR (d) OF THIS SECTION, no event shall any CAUSE OF action upon a medical, dental, optometric, or chiropractic claim be commenced ~~more~~ SHALL ACCRUE LATER than four SIX years after the occurrence of the act or omission constituting the alleged basis of the medical, dental, optometric, or chiropractic claim.

(b) If an action upon a medical, dental, optometric, or chiropractic claim is not commenced within four years after the occurrence of the act or omission constituting the alleged basis of the medical, dental, optometric, or chiropractic claim, then, notwithstanding the time when the action is that claim is barred.

(b) DIVISION (B)(3)(a) OF THIS SECTION IS NOT AVAILABLE AS AN AFFIRMATIVE DEFENSE TO A DEFENDANT IN AN ACTION UPON A MEDICAL, DENTAL, OPTOMETRIC, OR CHIROPRACTIC CLAIM AS DESCRIBED IN DIVISION (B)(1) OF THIS SECTION IF THE DEFENDANT ENGAGES IN FRAUD IN REGARD TO ANY RELEVANT FACT OR OTHER INFORMATION THAT PERTAINS TO THE ACT OR OMISSION CONSTITUTING THE ALLEGED BASIS OF THE MEDICAL, DENTAL, OPTOMETRIC, OR CHIROPRACTIC CLAIM.

(c) NOTWITHSTANDING AN OTHERWISE APPLICABLE PERIOD OF LIMITATION SPECIFIED IN THIS CHAPTER, IF A PLAINTIFF DISCOVERS AN INJURY THAT IS THE BASIS OF A MEDICAL, DENTAL, OPTOMETRIC, OR CHIROPRACTIC CLAIM WITHIN THE SIX-YEAR PERIOD DESCRIBED IN DIVISION (B)(3)(a) OF THIS SECTION, BUT LESS THAN ONE YEAR PRIOR TO THE EXPIRATION OF THAT PERIOD, AN ACTION BASED ON THE MEDICAL, DENTAL, OPTOMETRIC, OR CHIROPRACTIC CLAIM MAY BE COMMENCED WITHIN ONE YEAR AFTER THE DATE OF DISCOVERY OF THAT INJURY.

(d) NOTWITHSTANDING AN OTHERWISE APPLICABLE PERIOD OF LIMITATION SPECIFIED IN THIS CHAPTER, IF A MEDICAL, DENTAL, OPTOMETRIC, OR CHIROPRACTIC CLAIM ACCRUES DURING THE SIX-YEAR PERIOD DESCRIBED IN DIVISION (B)(3)(a) OF THIS SECTION AND THE PLAINTIFF CANNOT COMMENCE AN ACTION DURING THE PERIOD DUE TO A DISABILITY DESCRIBED IN SECTION 2306.16 OF THE REVISED CODE, AN ACTION BASED ON THE MEDICAL, DENTAL, OPTOMETRIC, OR CHIROPRACTIC CLAIM MAY BE COMMENCED

Am. Sub. H. B. No. 350

48

WITHIN ONE YEAR AFTER THE REMOVAL OF THAT DISABILITY.

(C) A civil action for unlawful abortion pursuant to section 2919.12 of the Revised Code, a civil action authorized by division (H) of section 2317.56 of the Revised Code, a civil action pursuant to division (B)(1) or (2) of section 2307.51 of the Revised Code for performing a dilation and extraction procedure or attempting to perform a dilation and extraction procedure in violation of section 2919.15 of the Revised Code, and a civil action pursuant to division (B)(1) or (2) of section 2307.52 of the Revised Code for terminating or attempting to terminate a human pregnancy after viability in violation of division (A) or (B) of section 2919.17 of the Revised Code shall be commenced within one year after the performance or inducement of the abortion, within one year after the attempt to perform or induce the abortion in violation of division (A) or (B) of section 2919.17 of the Revised Code, within one year after the performance of the dilation and extraction procedure, or, in the case of a civil action pursuant to division (B)(2) of section 2307.51 of the Revised Code, within one year after the attempt to perform the dilation and extraction procedure.

(D) As used in this section:

(1) "Hospital" includes any person, corporation, association, board, or authority that is responsible for the operation of any hospital licensed or registered in the state, including, but not limited to, those which are owned or operated by the state, political subdivisions, any person, any corporation, or any combination thereof. "Hospital" also includes any person, corporation, association, board, entity, or authority that is responsible for the operation of any clinic that employs a full-time staff of physicians practicing in more than one recognized medical specialty and rendering advice, diagnosis, care, and treatment to individuals. "Hospital" does not include any hospital operated by the government of the United States or any of its branches.

(2) "Physician" means a person who is licensed to practice medicine and surgery or osteopathic medicine and surgery by the state medical board or a person who otherwise is authorized to practice medicine and surgery or osteopathic medicine and surgery in this state.

(3) "Medical claim" means any claim that is asserted in any civil action against a physician, podiatrist, or hospital, against any employee or agent of a physician, podiatrist, or hospital, or against a registered nurse, MIDWIFE, or physical therapist, and that arises out of the medical diagnosis, care, or treatment of any person. "Medical claim" includes derivative claims for relief that arise from the medical diagnosis, care, or treatment of a person **AND A CLAIM THAT IS ASSERTED IN A CIVIL ACTION AGAINST A HOSPITAL AND THAT IS BASED ON NEGLIGENT CREDENTIALING.**

(4) "Podiatrist" means any person who is licensed to practice podiatric medicine and surgery by the state medical board.

(5) "Dentist" means any person who is licensed to practice dentistry by the state dental board.

(6) "Dental claim" means any claim that is asserted in any civil action against a dentist, or against any employee or agent of a dentist, and that

Am. Sub. H. B. No. 350

49

arises out of a dental operation or the dental diagnosis, care, or treatment of any person. "Dental claim" includes derivative claims for relief that arise from a dental operation or the dental diagnosis, care, or treatment of a person.

(7) "Derivative claims for relief" include, but are not limited to, claims of a parent, guardian, custodian, or spouse of an individual who was the subject of any medical diagnosis, care, or treatment, dental diagnosis, care, or treatment, dental operation, optometric diagnosis, care, or treatment, or chiropractic diagnosis, care, or treatment, that arise from that diagnosis, care, treatment, or operation, and that seek the recovery of damages for any of the following:

(a) Loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education, or any other intangible loss that was sustained by the parent, guardian, custodian, or spouse;

(b) Expenditures of the parent, guardian, custodian, or spouse for medical, dental, optometric, or chiropractic care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations provided to the individual who was the subject of the medical diagnosis, care, or treatment, the dental diagnosis, care, or treatment, the dental operation, the optometric diagnosis, care, or treatment, or the chiropractic diagnosis, care, or treatment.

(8) "Registered nurse" means any person who is licensed to practice nursing as a registered nurse by the state board of nursing.

(9) "Chiropractic claim" means any claim that is asserted in any civil action against a chiropractor, or against any employee or agent of a chiropractor, and that arises out of the chiropractic diagnosis, care, or treatment of any person. "Chiropractic claim" includes derivative claims for relief that arise from the chiropractic diagnosis, care, or treatment of a person.

(10) "Chiropractor" means any person who is licensed to practice chiropractic by the chiropractic examining board.

(11) "Optometric claim" means any claim that is asserted in any civil action against an optometrist, or against any employee or agent of an optometrist, and that arises out of the optometric diagnosis, care, or treatment of any person. "Optometric claim" includes derivative claims for relief that arise from the optometric diagnosis, care, or treatment of a person.

(12) "Optometrist" means any person licensed to practice optometry by the state board of optometry.

(13) "Physical therapist" means any person who is licensed to practice physical therapy under Chapter 475, of the Revised Code.

Sec. 2306.112. (A) AN ACTION FOR MALPRACTICE AGAINST A PSYCHOLOGIST, SOCIAL WORKER, OR CLINICAL COUNSELOR SHALL BE COMMENCED WITHIN ONE YEAR AFTER THE CAUSE OF ACTION ACCRUES.

(B) AN ACTION UPON A PSYCHOLOGICAL, SOCIAL WORK, OR CLINICAL COUNSELING CLAIM SHALL BE COMMENCED WITHIN ONE YEAR AFTER THE CAUSE OF ACTION ACCRUED,

**FACSIMILE TRANSMISSION
COVER SHEET****TORT Section****1031 W. 4TH AVE.****SUITE 200****ANCHORAGE, AK 99501****PHONE: (907) 269-5190****FAX: (907) 258-0760****DATE:** 4/10/97**TO:** Jim Soukack**FAX:** (907) 465-3834**FROM:** Gail Voiglander**NUMBER OF PAGES INCLUDING THIS SHEET:** 10**MESSAGE:**

Jim - I am pulling up \$2305.16
and will fax it.

I will also doublecheck that
these sections were signed "as is".

Gail
Here's \$2305.16

The information contained in this FAX is confidential and/or privileged. This FAX is intended to be received initially by only the individual named above. If the reader of this TRANSMITTAL PAGE is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of this FAX or the information contained herein is prohibited. If you have received this FAX in error, please immediately notify the sender by telephone and return this FAX to the sender at the above address. Thank you.

**PLEASE INFORM US IMMEDIATELY
IF YOU DO NOT RECEIVE THIS TRANSMISSION IN FULL
(907) 269-5190 ASK FOR: SANDY**

14LEVELAFORMFAX.FX

OH-ST - OH ST s 2305.16

Affiliated Company. All rights reserved.

Current through End of 1996 portion of 121st General Assembly

> 2305.16 DISABILITIES; TOLLING OF STATUTE OF LIMITATIONS

Unless otherwise provided in > sections 1302.98, > 1304.35, > 2305.04 to > 2305.14, or > 2744.04 of the Revised Code, if a person entitled to bring any action mentioned in those sections, unless for penalty or forfeiture, is, at the time the cause of action accrues, within the age of minority or of unsound mind, the person may bring it within the respective times limited by those sections, after the disability is removed. When the interests of two or more parties are joint and inseparable, the disability of one shall inure to the benefit of all.

After the cause of action accrues, if the person entitled to bring the action becomes of unsound mind and is adjudicated as being of unsound mind by a court of competent jurisdiction or is confined in an institution or hospital under a diagnosed condition or disease that renders the person of unsound mind, the time during which the person is of unsound mind and so adjudicated or so confined shall not be computed as any part of the period within which the action must be brought.

CREDIT(S)

(1996 H 350, eff. 1-27-97; 1994 S 147, eff. 8-19-94; 1990 S 125, eff. 1- 13-91; 131 v H 439, 129 v 13; 127 v 619; 1953 H 1; GC 11229)

Copyright. (C) West 1997 No claim to orig. U.S. govt. works

**FACSIMILE TRANSMISSION
COVER SHEET****TORT Section****1031 W. 4TH AVE.****SUITE 200****ANCHORAGE, AK 99501****PHONE: (907) 269-5190****FAX: (907) 258-0760****DATE:** 4/10/97**TO:** Jim Sourant**FAX:** (907) 465-3834**FROM:** Gail Voiglander**NUMBER OF PAGES INCLUDING THIS SHEET:** 10**MESSAGE:**

Jim - I am pulling up \$2305.16
and will fax it.

I will also doublecheck that
these sections were signed "as is".
Gail

The information contained in this FAX is confidential and/or privileged. This FAX is intended to be received initially by only the individual named above. If the reader of this TRANSMITTAL PAGE is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of this FAX or the information contained herein is prohibited. If you have received this FAX in error, please immediately notify the sender by telephone and return this FAX to the sender at the above address. Thank you.

**PLEASE INFORM US IMMEDIATELY
IF YOU DO NOT RECEIVE THIS TRANSMISSION IN FULL
(907) 269-5190 ASK FOR: SANDY**

INLEVELAPORDEKALPR

* Sec. 39. AS+09.68 is amended by adding a new section to read:

Sec. 09.68.130. Collection of settlement information. (a) Except as provided in (c) of this section, the Alaska Judicial Council shall collect from counsel for all parties information relating to the compromise or other settlement of all civil litigation. The information, including the

(1) case name and file number;

(2) a general description of the claims being settled;

(3) if the case is resolved by way of settlement:

(i) the gross dollar amount of the settlement,

(ii) to whom the settlement was paid,

(iii) the dollar amount of (a) advanced costs and (b) attorney fees that were deducted from the gross dollar amount of the settlement prior to disbursement to the claimant;

(iv) the net amount actually disbursed to the claimant;

(v) the total costs and attorney fees paid by defending parties, and;

(vi) any nonmonetary terms, including whether the attorney fees incurred by the claimant were based on a contingent fee agreement (report percentages) or upon an hourly rate (report hourly rates);

(4) if the case is resolved by dismissal, summary judgment, trial or otherwise:

(i) the gross dollar amount of the judgment;

(ii) the amount of attorney fees awarded, and to which party;

(iv) the amount of costs awarded, and to which party;

(v) the net amount for which the prevailing party has judgment;

(vi) any nonmonetary terms, including whether the attorney fees incurred by the claimant were based on a contingent fee agreement (report percentages) or upon an hourly rate (report hourly rates); shall be collected on a form developed by the council for that purpose.

(b) The information received by the council under (a) of this section is confidential. This restriction does not prevent the disclosure of summaries and statistics in a manner that does not allow the identification of particular cases or parties.

(c) The requirements of (a) of this section do not apply to the following types of cases:

Handwritten notes: "HCL" circled, and "GO HASE" written inside a large oval.

- 17 (1) divorce and dissolution;
- 18 (2) adoption, custody, support, visitation, and emancipation of
- 19 children;
- 20 (3) children-in-need-of-aid cases under AS+47.10 or delinquent
- 21 minors cases under 47.12;
- 22 (4) domestic violence protective orders under AS+18.66.100+-
- 23 18.66.180;
- 24 (5) estate, guardianship, and trust cases filed under AS+13;
- 25 (6) small claims under AS+22.15.040.



Section 5. AS 09.10.055. Statute of Repose of eight years.

insert a new subsection following (c) page 4, line 9.

(d) Notwithstanding the limitation under (a) of this section, a person under the age of majority who sustains an injury to the person's reproductive system may make a claim for the injury if the nature of the injury was not discovered, or could not be discovered through the use of reasonable diligence, during the period allowed under (a) of this section. This subsection does not create a substantive right to make such a claim.

#26

please pitch the
other version

1 *Sec. 63A. District Court Civil Rule 1(a)(1) is amended to read:
2 (1) The procedure in civil actions and proceedings before district
3 judges and magistrates shall be governed by the rules governing the
4 procedure in the superior court to the extent that such rules are applicable.
5 However, unless otherwise agreed by all parties or permitted by order of court
6 in exceptional cases and for good cause shown, discovery shall be limited to
7 the disclosures required under Civil Rule 26(a) and to the taking by each party
8 of the deposition of one or more opposing parties and of one additional
9 person who is not a party.

10 *Sec. 63B. District Court Civil Rule 4 is amended by adding a new
11 subsection to read:

12 (b) Unless otherwise permitted by order of the court in
13 exceptional cases and for good cause shown, all parties shall file a
14 memorandum to set the case for trial, as set forth in Civil Rule 40(b), no later
15 than 180 days after service of the complaint on all all parties to the case. The
16 memorandum shall contain a certification that each party has exchanged the
17 information described in Civil Rule 26(a) and may state their separate
18 positions if they do not agree concerning information or estimates to be
19 provided in the memorandum. After the court satisfies itself that the
20 information described in Rule 26(a) has been disclosed, it shall set the case for
21 trial as soon as practicable but no less than 30 days thereafter.

22 * Sec. 64. APPLICABILITY. This Act applies to all causes of action
23 accruing on or after the effective date of this Act.

24 * Sec. 65. SEVERABILITY. Under AS+01.10.030, if any provision of this
25 Act or the application of a provision of this Act to any person or circumstance
26 is held invalid, the remainder of this Act and the application to other persons
27 shall not be affected.
28

Post-It* Fax Note	7671	Date	4-11	# of pages	▶
To	Mr. A.G.	From	Jim S.		
Co./Dept.		Co.	Rgn Porter		
Phone #		Phone	408 3727		
Fax #	2075	Fax #			

TO: Bruce, Gail, Jeff & Mike

Fm: Jim

April 11, 1997

Re: Prejudgment interest rates.

Under HB 58, the rate is three points above the discount rate in the Federal Reserve District as of January 2, 1997. On January 2, 1997, the rate was 5%, (the same as it is yesterday). The prejudgment interest rate is now 8% under the HB 58 approach. HB 58's approach is the same as that the state's usury statute, 45.45.010. See attached. We got this data in five minutes with one phone call.

Under the Task Force approach (HB 60 & SB 15), the rate is one and one-half percentage points above "the rate for a five-year constant maturity United States Treasury note published in the applicable Federal Reserve H. 15 Statistical Release..." Yesterday the base rate was 6.78. The prejudgment interest rate is now 8.28% under the Task Force approach. It took a lot longer to get this data. See attached.

8.00% v. 8.28%

JDP

HB 60 w/ HB 58

Chapter 45. Trade Practices.

Article

1. Interest (§§ 45.45.010 — 45.45.070)
2. Collection of Advance Interest (§§ 45.45.080, 45.45.090)
3. Merchandise (§§ 45.45.100 — 45.45.110)
4. Funerals (§ 45.45.120)
5. Regulation of Motor Vehicle Repairs (§§ 45.45.130 — 45.45.240)
6. Motor Vehicle Warranties (§§ 45.45.300 — 45.45.360)
7. Used Vehicle Sales in Emission Inspection Areas (§ 45.45.400)
8. Copyright Royalties and Licensing (§§ 45.45.500 — 45.45.590)
9. Miscellaneous Provisions (§§ 45.45.900, 45.45.910)

Article 1. Interest.

Section

10. Legal rate of interest
20. Higher rate of interest prohibited
30. Action for recovery of double amount of usurious interest paid
40. Usurious rate as working forfeiture of entire interest

Section

50. Recovery by assignee of usurious contract of amount paid
60. Contract not usurious because of agreement to pay taxes
70. Enforcement of contracts entered into under AS 45.45.060

Sec. 45.45.010. Legal rate of interest. (a) The rate of interest in the state is 10.5 percent a year and no more on money after it is due except as provided in (b) of this section.

(b) Interest may not be charged by express agreement of the parties in a contract or loan commitment that is more than five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District on the day on which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds \$25,000 is exempt from the limitation of this subsection.

(c) *[Repealed, § 3 ch 84 SLA 1973.]*

(d) *[Repealed, § 2 ch 94 SLA 1981.]*

(e) *[Repealed, § 4 ch 146 SLA 1974.]*

(f) A bank, credit union, savings and loan institution, pension fund, insurance company or mortgage company may not require or accept any percent of ownership or profits above its interest rate. This subsection does not apply to a loan if the principal amount of the loan is \$1,000,000 or more and the term of the loan is five years or more.

(g) Loan contracts and commitments covering one- to four-family dwellings may be prepaid without penalty, except federally insured loans that require a prepayment penalty.

(h) If the limitations on interest rates provided for in this section are inconsistent with the provisions of any other statute covering maximum interest, service charges or discount rates then the provisions of the other statute prevail. (§ 25-1-1 ACLA 1949; am § 20 ch 143 SLA 1968; am § 2 ch 69 SLA 1969; am §§ 1, 2 ch 94 SLA 1969; am §§ 1, 2 ch 239 SLA 1970; am §§ 1 — 3 ch 84 SLA 1973; am §§ 1 — 4 ch 146 SLA 1974; am § 1 ch 110 SLA 1976; am § 1 ch 159 SLA 1976; am § 2 ch 107 SLA 1980; am §§ 1, 2 ch 94 SLA 1981; am § 1 ch 56 SLA 1982)

Cross references. — For maximum rates of interest applicable to: bank credit cards, see AS 06.05.209; credit unions, see AS 06.45.060; judgments, see AS 09.30.070; life insurance policy loans, see AS 21.45.080; premium finance agreements, see AS 06.40.120; retail installment contracts, see AS 45.10.120; small loan companies, see AS 06.20.230.

Legislative history reports. — For report on ch.

84, SLA 1973 (FCCS HCSSB 37), see 1973 Senate Journal Supplement 16, pp. 1 and 2, following p. 766 of the 1973 Senate Journal.

Opinions of attorney general. — It is unlawful for a bank to charge or collect "points" which when in combination with the interest charged for a loan, would exceed usury ceiling established by subsection (b). 1979 Op. Att'y Gen. No. 6.

12th Federal Reserve Bank
 206-343-3600
 A/O 1/3/97 = 5.00%

7

DG37 Index H P

CLOSE / MID / YIELD TABLE
 CMAT05Y TREAS CONS MATR 5 YEAR

PAGE 1 / 3

6.85 % PER ANNUM, NSA

HI 6.85

ON 4/11/97

RANGE 10/11/96 TO 4/11/97 PERIOD D (D-W-M-Q-Y)

AVE 6.2666

LOW 5.84

ON 12/ 3/96

DATE	YIELD	DATE	YIELD	DATE	YIELD
F 4/11 H	6.85	F 3/21	6.61	F 2/28	6.39
T 4/10	6.78	T 3/20	6.61	T 2/27	6.40
W 4/ 9	6.77	W 3/19	6.58	W 2/26	6.37
T 4/ 8	6.76	T 3/18	6.56	T 2/25	6.20
M 4/ 7	6.73	M 3/17	6.55	M 2/24	6.19
F 4/ 4	6.78	F 3/14	6.53	F 2/21	6.16
T 4/ 3	6.72	T 3/13	6.55	T 2/20	6.17
W 4/ 2	6.73	W 3/12	6.43	W 2/19	6.10
T 4/ 1	6.74	T 3/11	6.40	T 2/18	6.08
M 3/31	6.77	M 3/10	6.40	M 2/17	
F 3/28		F 3/ 7	6.39	F 2/14	6.07
T 3/27	6.76	T 3/ 6	6.45	T 2/13	6.12
W 3/26	6.66	W 3/ 5	6.43	W 2/12	6.19
T 3/25	6.63	T 3/ 4	6.44	T 2/11	6.18
M 3/24	6.58	M 3/ 3	6.41	M 2/10	6.16

Bloomberg-all rights reserved. Frankfurt:69-920410 Hong Kong:2-521-3000 London:171-330 /500 New York:212-318-2000
 Princeton:609-279 3000 Singapore:226-3000 Sydney:2-9777-8600 Tokyo:3 3201-8900 Washington DC:402-624-1800
 G157 59-0 11-Apr-97 17:25:23

Joel: Here are the rates!

They can also be found at the
 Federal Reserve's Web Site.

<http://www.bog.frb.fed.us/releases/H45/>

[illegible]

Aust. Daily News 1/8/97

NEW YORK (AP) — Money rates for Thursday as reported by Dow Jones Telerate as of 4 p.m.

Telerate interest rate index: 5,560

Overnight, 5.75-5.875

18 Feb 1951

STOM	
Quotable	
Company	
Ak Air	
Arco	
BP	
Carrs	
Chevron	
Cominco	
CSX	
Costco	
Eagle	
Federal Express	
Fred Meyer	
Kmart	
Keycorp.	

GOLD COINS

NEW YORK - Selected coin prices in U.S. dollars:

~~Today~~ 4.11.97

Yesterday's Discount rate
in the 12th Fed'l Dist
= 5%

LAW OFFICES OF
CHARLES E. COLE
406 CUSHMAN STREET
FAIRBANKS, ALASKA 99701

TELEPHONE 452-1124

DATE

4/11

MEMORANDUM TO:

Brian Porter

District Court

with respect to J. Feldman's comment about the jurisdictional limits of this court, please keep in mind that until a proposal limiting discovery in this court, no hue & cry had been raised to increase the jurisdiction. Further, his view doubles the major changes

TRANSLATION:

With respect to J. Feldman's comment about the jurisdictional limits of this court, please keep in mind that until a proposed limiting discovery in this court, no hue and cry had been raised to increase the jurisdiction [amounts]. Further his view doubles the major changes

#6

Section 38: (Damages from Commission of Felony)

Page 18, line 13 insert after the word "if":

"the defendant by clear and convincing evidence proves the violation of AS 28.35.030 and that the conduct substantially contributed to the personal injury or death."

~~After~~ ~~to~~ ~~this~~
Fix

§35 cfr on putative
- ~~off~~ opposed.

ER Does:

- Not apply to 3rd Tier des.

(Aie)

Charge pg 15 line 10
larger.

"as his or her exclusive or
predominant mode of practice."

~~Settlement Info.~~

- Burdensome & unhelpful.

\$50K sanction but not like \$50.
Roger believes jury deal w/ losses.
PT = not deal breaker.

Dist. Ct

- ~~insufficient~~ re 100K

S/R:

① If 10 yrs old so Gov't
not put child & does any
on book for 10 & 20 years.
[Ours about same, but diff's]

?

Monte Carlo

- Const 10?

- 1st 2nd level cap... or 50K/yr

- Includes the 500K 1st tier.

Allocation of damages

If 4 available for attention review,
fault can be allocated.

- Employees

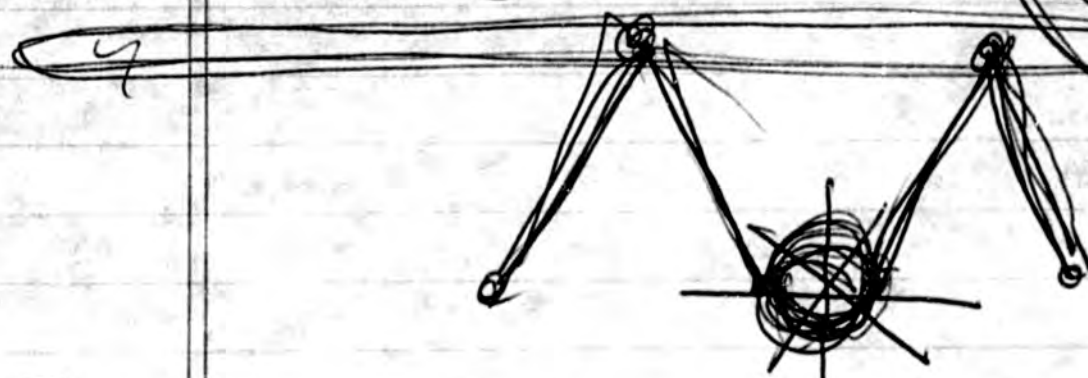
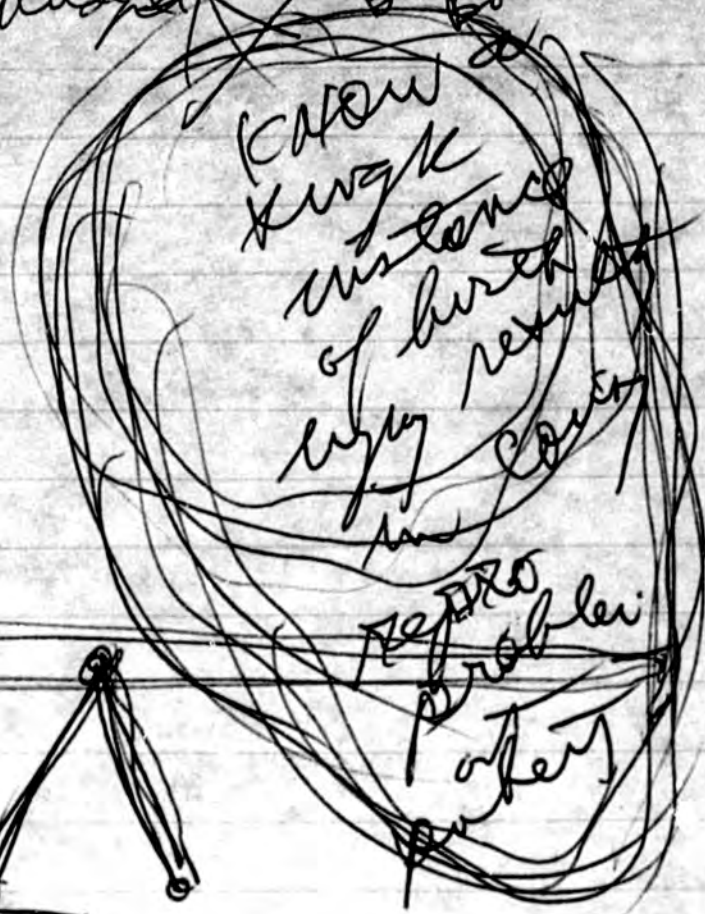
- Relate back.

SBS Self-Funding -
took em off budget. Dr. Brooke & Beltho

① New Hightower:
- Charlie Cole's

② Proj. interest

③ Repose:
- Dr. Brooke



① Go w/ HB58

② I do some at #3 for
cost of 100k or less
for Superior Ct.

③ ADR: Take out "pilot?"
= vote charger

* 7 Stat. of Repose:

② See Notes

Break pt = 25 acute beds
in community under
10,000 people.

need 4 m. SAT

AM

~~Call Gail~~

Gail 269-5191

Get a record for Rattle
basis - input 2 hr window.

Bruce - spoke w/ ^{used:} 2/33 @
Gail & Jeff 6/31

Jeff w/ Roger talk of action

~~Bob~~
Brian said his deadline to
go over it before 2 pm

He told em Brian's 2 pm
deadline. Have to do
today. If program, up to
Brian & Bruce.

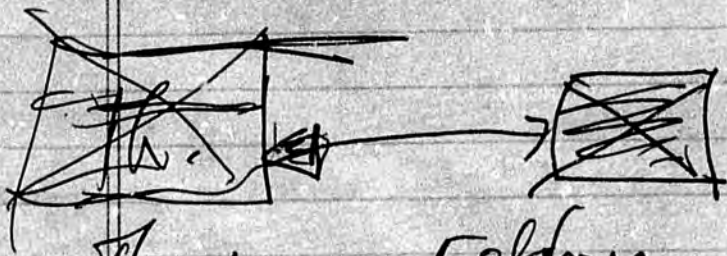
Jeff said prepared to meet
w/ Roger ~~at~~ / at there in an
to finish up. Jeff
never more optimistic than
he is now.

Bruce said Gail at the mtg
yesterday to tell em what
we accomplished. Jeff
always assured Gail he there.

Gail called Roger ~~last~~ late
yesterday to encourage a
setting. not v'w.

Tom
Botelho

4.12.97



The pm: Feldman

Called - XFL - Drayden

He called Mike the
next day.

- Tell Barker will call
him.

He then called Carol for
her info.

~~that~~ she returned at
end of May.

- He told her to
log out issues.

He called B.A. in Th.
mid afternoon. He
proposed to personally
getty involved - not

Gail reports that
Jeff & Roger had a
good session, &
they prefer to go.
Roger was to
call B.A. in Th.

9:30 pm Gail
said they'd take it
over there. —

Try over each other

Jeff
902-
712/38
753

Gail
Jeff

1. Agmt: Settlement. Between us.
not quoted if go to hell.

4.10.92

1. Who does Jeff speak for?
- The Gov or Tribal (Tuyas)?

2. Gail: - Cut a tentative deal, which
we take back to our people.
- Cannot be preserved,
has to be a comprehensive pkg.
(i.e. we're already given at
council floor level)
- Let's Roll!

Dist. Ct.

Section 1: ~~_____~~

2; 3. 4 OK

Repose

~~_____~~ Families & children dear
to Gov's heart.

- Middle ground?? : On issue of #s,
not sure about 12 yrs full loc
years but - On juvenile & adult
issue, reservation. # has to be bigger than 8,
if push to adolescence, he'd
try to vote it by. If Govt
posn, if children level protection,
he would sign it.

Gail: Much on Ohio had
most recent one. Shall take a look
at minority today.

(A) - pg 3, line 25: "prolonged":
what does it mean. fix a prob:
A: ~~_____~~ should be deleted.

- Same prob w/ "~~_____~~"

(B) + "~~_____~~"
(C) ~~_____~~

∴ Charges re cing + 12 yrs

§ 6. OK

§ 7. 15 - See what other states do

~~_____~~
~~_____~~
③ 300K/500K cap eroded
- ~~_____~~ value eroded
- Not like 2 tiered approach
- Not like 500K cap in extreme cases
- He'll never agree to a cap on
a quintuplet, are ?, _____.

HOT
Button to
Need to
explore

Make an offensive acceptable bill unacceptable
Drop dead issue on both sides

~~_____~~
④ Agree on concept of a cap.
TH had Kansas stat. so no mom
pop - 1 year wear.
- He not married to it
- He's flexible on it

★

But Jeff is locked on a very useful
measure of punishment. 12. million Co.
of \$0k/insured (Not a class Xa?)

He told em flex'l on #s.

§12: Brian prepared to delete 12.

§13: 14/15.

§16: Brian prepared to delete
Allocation
§17: ~~20~~ 19 layers Assessing impact
that they

§20 - ~~As~~ Against it.

§21 - Brian confirmed it's what Docs
Gail & Docs want it.

Jeff: Not opposed to Qualifies report
to ~~oppose~~ work it, hard
to get reports.

§22 - 2 probs: offer of judgment
1. Limited to allocation of fault proven.
2. If wanted stronger incentives -
This one too overous, esp. when
multiple defendants. Given savings &
how jury will allocate among
multiple defendants.

§23. Deleted 16-18.

§24. Will check it out w/ TF.
- To say's #1's.

§25. They'd check every low.

§26

§27

34-

§30 - Can't figure out till something
worked out.

§36. - Not Thru'd but not an issue -

§37: Needs to talk to Roger
Mike: all claims made \$500K/market
w/ \$1.5m/yr cap.
- OK on "be his or her---".

§38: Myerka example.
Tiff has no proposal, but wants
to get conversation issue not shy.

§39: If do it for that purpose.

- If collect fee who then treat:

- Also resolved by MFT. § -
Only disavowed

§40.

§41 ~~§42~~ (2) Quits OK. Underlined
If John Suddock not live it -
§42

§43. — OK

§44 — Not u/s

45-47 five (to recovery 45-46?)
University rules be gone.

§50. Brian as throw out if
noise §49 to §50K. Quil pro Quo

Goal sep re §50: ~~to~~ she sees it
increasing ~~of~~ nature issue.
Agree to disagree — 45 mph depo v.
50 mph.

Dist Ct —

Top ~~is~~ he can't get a
45K claim ~~liberated~~ in Superior Ct.

1. 12 yr S/R bottom line.

2. Woneson - nowhere!
- Outdrifted - gone.

3.

Roger

4.10

907-486-3430

Bence & Gail

① Repose:

We proposed $s/l = 10$ yrs.
Then toll s/l for minors 0-8
which would protect em.

② Me

→ look at § long fut Lee's outline.

② Noncon

③ what do Mich & Ohio do w/ Quads?
- what kind of caps?

③ Punitive

- 300K & 1.5m caps.

- Keep 50% to STATE:

Roger: lawyers will settle after
verdict to cut out punitive.

Roger: Bill Allen for Gov's ear
& all he wants are punishes.

④ §12: TAX: Throwout -

⑤ §13: Pristic Int.

If get good deal on Big 3 issue,
we'd give this up.

- Move \$100K → \$500K

⑥ §16 Callot's benefits: cure away if
get right on big issues.

⑦ §17 Appropriation of fault.

⑧ §21 Krent witness — Use HB 58.

⑨ §22 offer of judgment

⑩ Me 5% — single Δ
10% — multi Δ

⑪ §23 Take out (C)

⑫ §37:

— For over 50 beds?? If under 50 beds,
smaller.

— Roger has ideas on which
physicians — i.e. surgeon called in
to stick someone up.

⑬ §49/§50
— Get rid of §50?

⑭ §55 tax — Throw out.

⑮