



General Assembly

February Session, 2004

Amendment

LCO No. 4285

HB0535504285HRO

Offered by:

REP. BOUCHER, 143rd Dist.

To: Subst. House Bill No. 5355

File No. 292

Cal. No. 210

(As Amended)

"AN ACT CONCERNING THE MEDICAL USE OF MARIJUANA."

1 In line 145, before "A" insert "(a)"

2 After line 162, insert the following:

3 "(b) Notwithstanding the provisions of subsection (a) of this section,
4 a physician who provides a written certification for the medical use of
5 marijuana shall be subject to an action based on negligence pursuant to
6 section 52-572h of the general statutes, as amended by this act."

7 After the last section, add the following and renumber sections and
8 internal references accordingly:

9 "Sec. 501. Subsection (a) of section 52-572h of the general statutes is
10 repealed and the following is substituted in lieu thereof (*Effective from*
11 *passage*):

12 (a) For the purposes of this section: (1) "Economic damages" means

13 compensation determined by the trier of fact for pecuniary losses
14 including, but not limited to, the cost of reasonable and necessary
15 medical care, rehabilitative services, custodial care and loss of earnings
16 or earning capacity excluding any noneconomic damages; (2)
17 "noneconomic damages" means compensation determined by the trier
18 of fact for all nonpecuniary losses including, but not limited to,
19 physical pain and suffering and mental and emotional suffering; (3)
20 "recoverable economic damages" means the economic damages
21 reduced by any applicable findings including but not limited to
22 set-offs, credits, comparative negligence, additur and remittitur, and
23 any reduction provided by section 52-225a; (4) "recoverable
24 noneconomic damages" means the noneconomic damages reduced by
25 any applicable findings including but not limited to set-offs, credits,
26 comparative negligence, additur and remittitur; (5) "health care
27 institution" means a health care institution licensed pursuant to
28 chapter 368v; and (6) "health care provider" means an individual
29 provider of health care licensed pursuant to chapters 370 to 373,
30 inclusive, chapters 375 to 383c, inclusive, or chapter 400j.

31 Sec. 502. Section 52-572h of the general statutes is amended by
32 adding subsection (p) as follows (*Effective from passage*):

33 (NEW) (p) In any action filed on or after October 1, 2004, to recover
34 damages resulting from personal injury or wrongful death, whether in
35 tort or in contract, in which it is alleged that such injury or death
36 resulted from the professional negligence of a health care provider or
37 health care institution, or both, in the medical diagnosis, care or
38 treatment of the claimant:

39 (1) The amount of recoverable noneconomic damages allowed the
40 claimant shall not exceed three hundred fifty thousand dollars for each
41 claimant with respect to defendant health care providers, regardless of
42 the number of defendant health care providers against whom the claim
43 is asserted or the number of separate causes of action on which each
44 claim is based, except that if the conduct of the defendant is found by
45 the trier of fact to constitute gross, wilful or wanton negligence, the

46 amount of recoverable noneconomic damages allowed each claimant
47 under this subdivision shall not exceed one million fifty thousand
48 dollars;

49 (2) The amount of recoverable noneconomic damages allowed the
50 claimant shall not exceed six hundred fifty thousand dollars for each
51 claimant with respect to defendant health care institutions, regardless
52 of the number of defendant health care institutions against which the
53 claim is asserted or the number of separate causes of action on which
54 each claim is based, except that if the conduct of the defendant is
55 found by the trier of fact to constitute gross, wilful or wanton
56 negligence, the amount of recoverable noneconomic damages allowed
57 each claimant under this subdivision shall not exceed one million nine
58 hundred fifty thousand dollars;

59 (3) An award or combination of awards in excess of the limitations
60 set forth in subdivisions (1) and (2) of this subsection shall be reduced
61 to the applicable limits by the court. The limits in subdivisions (1) and
62 (2) of this subsection shall not be disclosed to a jury;

63 (4) The Chief Court Administrator shall adjust the amount of
64 recoverable noneconomic damages set forth in subdivisions (1) and (2)
65 of this subsection annually on February first to reflect the percentage
66 increase, if any, in the most recent calendar year average in the
67 consumer price index for urban consumers over the average for the
68 previous calendar year."