

HCS HB 2434 -- PUNITIVE DAMAGES HEALTH CARE PROVIDER

SPONSOR: White

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Special Committee on Litigation Reform by a vote of 7 to 2.

This bill provides that punitive damages may be awarded against a health care provider in a malpractice action only if the plaintiff proves by clear and convincing evidence that the defendant intentionally caused damage to the plaintiff or demonstrated malicious misconduct.

PROPONENTS: Supporters say that recent appellate decisions have diluted the protections put in place by the original statute, and this bill will help restore the original intent. Plaintiffs in these cases will file for punitive damages without supporting facts, causing doctors to move out of state, or consider finding another career. These claims are not covered by a malpractice insurance policy which places unfair pressure on a doctor to settle a case to protect his or her personal assets.

Testifying for the bill were Representative White; Missouri State Medical Association; Dana Frese, Missouri Hospital Association & Missouri Organization of Defense Lawyers; and Associated Industries of Missouri.

OPPONENTS: Those who oppose the bill say that this bill prohibits an award of punitive damages against a health care provider who commits outrageous or reckless, but not intentional, conduct, for example, performing surgery while intoxicated. In addition, there are very few cases of punitive damages awarded against a health care provider.

Testifying against the bill was Genevieve Nichols.