

SECOND REGULAR SESSION

# HOUSE BILL NO. 3225

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE WALSH MOORE.

6982H.011

JOSEPH ENGLER, Chief Clerk

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### AN ACT

To repeal section 538.205, RSMo, and to enact in lieu thereof one new section relating to tort actions based on improper health care.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 538.205, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 538.205, to read as follows:

538.205. As used in sections 538.205 to 538.230, the following terms shall mean:

- 2 (1) "Catastrophic personal injury", a physical injury resulting in:
  - 3 (a) Quadriplegia defined as the permanent loss of functional use of all four limbs;
  - 4 (b) Paraplegia defined as the permanent loss of functional use of two limbs;
  - 5 (c) Loss of ~~two~~ **one** or more limbs;
  - 6 (d) An injury to the brain that results in permanent cognitive impairment resulting in  
7 the permanent inability to make independent decisions or engage in one or more of the  
8 following activities of daily living: eating, dressing, bathing, toileting, transferring, and  
9 walking;
  - 10 (e) An injury that causes irreversible failure of one or more major organ systems; or
  - 11 (f) Vision loss such that the patient's central visual acuity is no more than twenty/two-  
12 hundred in the better eye with the best correction or whose field of vision in the better eye is  
13 restricted to a degree that its widest diameter subtends an angle no greater than twenty  
14 degrees;
  - 15 (2) "Economic damages", damages arising from pecuniary harm including, without  
16 limitation, medical damages, and those damages arising from lost wages and lost earning  
17 capacity;

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 (3) "Employee", any individual who is directly compensated by a health care provider  
19 for health care services rendered by such individual and other nonphysician individuals who  
20 are supplied to a health care provider by an entity that provides staffing;

21 (4) "Equitable share", the share of a person or entity in an obligation that is the same  
22 percentage of the total obligation as the person's or entity's allocated share of the total fault, as  
23 found by the trier of fact;

24 (5) "Future damages", damages that the trier of fact finds will accrue after the  
25 damages findings are made;

26 (6) "Health care provider", any physician, hospital, health maintenance organization,  
27 ambulatory surgical center, long-term care facility including those licensed under chapter  
28 198, dentist, registered or licensed practical nurse, optometrist, podiatrist, pharmacist,  
29 chiropractor, professional physical therapist, psychologist, physician-in-training, and any  
30 other person or entity that provides health care services under the authority of a license or  
31 certificate;

32 (7) "Health care services", any services that a health care provider renders to a patient  
33 in the ordinary course of the health care provider's profession or, if the health care provider is  
34 an institution, in the ordinary course of furthering the purposes for which the institution is  
35 organized. Professional services shall include, but are not limited to, transfer to a patient of  
36 goods or services incidental or pursuant to the practice of the health care provider's profession  
37 or in furtherance of the purposes for which an institutional health care provider is organized;

38 (8) "Medical damages", damages arising from reasonable expenses for necessary  
39 drugs, therapy, and medical, surgical, nursing, x-ray, dental, custodial and other health and  
40 rehabilitative services;

41 (9) "Noneconomic damages", damages arising from nonpecuniary harm including,  
42 without limitation, pain, suffering, mental anguish, inconvenience, physical impairment,  
43 disfigurement, loss of capacity to enjoy life, and loss of consortium but shall not include  
44 punitive damages;

45 (10) "Past damages", damages that have accrued when the damages findings are  
46 made;

47 (11) "Punitive damages", damages intended to punish or deter malicious misconduct  
48 or conduct that intentionally caused damage to the plaintiff, including exemplary damages  
49 and damages for aggravating circumstances;

50 (12) "Self-insurance", a formal or informal plan of self-insurance or no insurance of  
51 any kind.