

WORKING DRAFT

SENATE FILE NO. _____

Medical damages-structured payments.

Sponsored by: Joint Labor, Health and Social Services
Interim Committee

A BILL

for

1 AN ACT relating to civil actions; requiring the court to
2 order structured payments in medical injury or death cases
3 as specified; providing for modification of orders;
4 providing definitions; and providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 1-1-129 is created to read:

9

10 **1-1-129. Medical injury actions; periodic payments of**
11 **awards for future damages.**

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13 (a) In any action for damages for injury or death
14 against any health care provider, whether based on tort,
15 breach of contract or otherwise, arising out of the

1 provision of, or failure to provide, health care services,
2 the court in which the action is brought shall enter a
3 judgment ordering future damages of the judgment creditor
4 to be paid in whole or in part by periodic payments rather
5 than by a lump-sum payment if the award equals or exceeds
6 one hundred thousand dollars (\$100,000.00) in future
7 damages. In entering a judgment ordering the payment of
8 future damages by periodic payments, the court shall make a
9 specific finding as to the dollar amount of periodic
10 payments which will compensate the judgment creditor for
11 the future damages. As a condition to authorizing periodic
12 payments of future damages, the court shall require that
13 the payments be made through the establishment of a trust
14 fund or the purchase of an annuity for the life of the
15 judgment creditor or during the continuance of the
16 compensable injury or disability of the judgment creditor.

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18 (b) The judgment ordering the payment of future
19 damages by periodic payments shall specify each recipient
20 of the payments, the dollar amount of the payments, the
21 interval between payments, and the number of payments or
22 the period of time over which payments shall be made. The
23 payments shall only be subject to modification by the court
24 in the event of the death of the judgment creditor, as

1 provided in subsection (c) of this section, or upon
2 petition to the court, as provided in subsection (d) of
3 this section.

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5 (c) In any judgment where future damages are payable
6 in periodic payments, liability for payment of future
7 damages not yet due shall terminate upon the death of the
8 judgment creditor; provided, however, that the court which
9 rendered the original judgment may modify the judgment to
10 provide that damages awarded for loss of future earnings
11 shall not be reduced or payments terminated by reason of
12 the death of the judgment creditor, but shall be paid to
13 persons whom the judgment creditor owed a duty of support,
14 as provided by law, immediately prior to the judgment
15 creditor's death.

16
17 (d) Following the occurrence or expiration of all
18 obligations specified in the periodic payment judgment, any
19 obligation of the judgment debtor to make further payments
20 shall cease, provided the court which rendered the original
21 judgment may modify the judgment to provide that damages
22 awarded for loss of future earnings shall not be reduced or
23 payments terminated by reason of the death of the judgment
24 creditor, but shall be paid to persons whom the judgment

1 creditor owed a duty of support, as provided by law,
2 immediately prior to the judgment creditor's death.

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4 (e) In the event that the court finds that the
5 judgment debtor has exhibited a continuing pattern of
6 failing to make the payments specified in subsection (a) of
7 this section, the court shall find the judgment debtor in
8 contempt of court and, in addition to the required periodic
9 payments, shall order the judgment debtor to pay the
10 judgment creditor all damages caused by the failure to make
11 the periodic payments, including court costs and attorney's
12 fees.

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14 (f) As used in this section:

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16 (i) "Future damages" includes damages for future
17 medical treatment, care or custody, loss of future
18 earnings, loss of bodily function or future pain and
19 suffering of the judgment creditor;

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21 (ii) "Health care provider" means any doctor of
22 medicine, doctor of osteopathy or hospital licensed by this
23 state to provide health care services and an officer,

1 employee or agent of the provider acting in the course and
2 scope of employment;

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4 (iii) "Health care services" means acts of
5 diagnosis, treatment, medical evaluation or advice or other
6 acts permissible under the health care licensing statutes
7 of this state;

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9 (iv) "Judgment creditor" means a person who has
10 obtained a judgment against a health care provider for
11 injury or death, arising out of the provision of or failure
12 to provide health care services;

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14 (v) "Judgment debtor" means a health care
15 provider against whom a judgment has been recovered or any
16 successors in interest of the person, where the judgment is
17 unsatisfied;

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19 (vi) "Periodic payments" means the payment of
20 money or delivery of other property to the judgment
21 creditor at regular intervals.

1

2 **Section 2.** This act is effective July 1, 2003.

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(END)

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