

CAYMAN ISLANDS



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**A BILL FOR A LAW TO LIMIT NON-ECONOMIC DAMAGES IN  
CLAIMS FOR MEDICAL NEGLIGENCE; AND TO PROVIDE FOR  
INCIDENTAL AND CONNECTED PURPOSES**

**THE MEDIAL NEGLIGENCE (NON-ECONOMIC DAMAGES) BILL,  
2011**

**MEMORANDUM OF OBJECTS AND REASONS**

This Bill seeks to limit non-economic damages in claims for medical negligence.

Clause 1 of the Bill provides the short title.

Clause 2 contains definitions for words used in the legislation including “claim for medical negligence”, “claimant”, “health care” “health care facility” and “non-economic damages”.

Clause 3 limits civil liability for non-economic damages in a claim for medical negligence, so that the civil liability (including vicarious liability) for non-economic damages is limited to an amount not exceeding five hundred thousand dollars for each claimant, regardless of the number of registered practitioners against whom, and health care facilities in respect of which, the claim is asserted or the number of separate causes of action on which the claim is based.

Clause 4 clarifies that notwithstanding any law in force in the Islands or rule of private international law to the contrary, a foreign judgment, arbitral award or other monetary compensation award is not enforceable by the courts in the Islands in respect of non-economic damages to the extent that it exceeds the amount of the non-economic damages that may be awarded in the Islands.

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ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Medical Negligence (Non-economic Damages) Law, 2011. Short title

2. In this Law - Interpretation

“claim for medical negligence” means a claim for monetary compensation whether by action, arbitration or otherwise for injury sustained by reason of medical negligence and whether caused by a breach of contract, a tort or any other cause of action;

“claimant” means the person who suffered the injury giving rise to the claim for medical negligence or his personal representatives;

“health care” means the provision of health services;

“health care facility” means a health care facility as defined in section 2 of the Health Practice Law (2005 Revision); (2005 Revision)

(2005 Revision) “health services” means health services as defined in section 2 of the Health Practice Law (2005 Revision);

“non-economic damages” includes damages, an arbitral award or other monetary compensation awarded for the purpose of compensating a claimant for the following non-economic losses that would not have occurred but for the injury giving rise to the claim for medical negligence -

- (a) physical pain and suffering;
- (b) mental or emotional pain or anguish;
- (c) loss of consortium;
- (d) disfigurement;
- (e) physical or mental harm or impairment;
- (f) loss of amenities of life;
- (g) loss of capacity for enjoyment of life;
- (h) loss of expectation of life; and
- (i) any other non-economic losses to the extent that the claimant is entitled by law to recover such damages, arbitral award or other monetary compensation; and

(2005 Revision) “registered practitioner” means a registered practitioner as defined in section 2 of the Health Practice Law (2005 Revision).

Limitation on non-economic damages

3. In a claim for medical negligence, the civil liability (including vicarious liability) for non-economic damages is limited to an amount not exceeding five hundred thousand dollars for each claimant, regardless of the number of -

- (a) registered practitioners against whom; and
- (b) health care facilities in respect of which,

the claim is asserted or the number of separate causes of action on which the claim is based.

Enforcement of foreign judgment or arbitral award or other monetary compensation award

4. Where a claimant has obtained a foreign judgment, an arbitral award or other monetary compensation award arising out of a claim for medical negligence in respect of an event that occurred in the Islands, then (notwithstanding any law in force in the Islands or rule of private international law to the contrary) that judgment, arbitral award or other monetary compensation award (if otherwise enforceable by a court in the Islands) shall not be enforceable by that court in respect of non-economic damages to the extent that it exceeds the amount of the non-economic damages that may be awarded under section 3.

Passed by the Legislative Assembly the            day of            , 2011.

Speaker.

Clerk of the Legislative Assembly.