

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE TORTS (REFORM) LAW (1996
REVISION) TO LIMIT NON-ECONOMIC DAMAGE AWARDS IN
ACTIONS FOR HEALTH CARE LIABILITY; AND TO PROVIDE FOR
INCIDENTAL AND CONNECTED PURPOSES**

THE TORTS (REFORM) (AMENDMENT) BILL, 2011

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the Torts (Reform) Law (1996 Revision) to limit non-economic damage awards in actions for health care liability.

Clause 1 of the Bill provides the short title.

Clause 2 of the Bill amends the Torts (Reform) Law (1996 Revision) by inserting a new Part V. The new Part V contains section 10 which limits civil liability for non-economic damages in an action for a health care liability claim in tort where final judgment is rendered, 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. In each case civil liability includes vicarious liability.

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ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Torts (Reform) (Amendment) Law, 2011.

Short title

2. The Torts (Reform) Law (1996 Revision) is amended by inserting after Part IV the following Part -

Insertion of Part V in the Torts (Reform) Law (1996 Revision) - non-economic damages in actions for health care liability

“PART V - NON-ECONOMIC DAMAGES IN ACTIONS FOR HEALTH CARE LIABILITY

Limitation on non-economic damages

10. (1) In an action for a health care liability claim in tort where final judgment is rendered, 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.

(2) In this section -

“claimant” means the person who suffered the injury giving rise to the cause of action or his personal representative;

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

“non-economic damages” includes damages 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 cause of action -

- (a) physical pain and suffering;
- (b) mental or emotional pain or anguish;
- (c) loss of consortium;
- (d) disfigurement;
- (e) physical 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; and

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

Passed by the Legislative Assembly the day of , 2011.

Speaker.

Clerk of the Legislative Assembly.