

Senate Bill No. 580

(By Senators Trump, Carmichael, Gaunch,
D. Hall, Karnes, Kirkendoll, Leonhardt,
Maynard, Miller, Nohe, Palumbo, Romano,
Snyder, Williams and Woelfel)

[Originating in the Committee on the Judiciary;
reported February 28, 2015.]

A BILL to amend and reenact §55-7B-4 of the Code of West Virginia, 1931, as amended, relating to the statute of limitations on claims by minors for health care injuries under the Medical Professional Liability Act.

Be it enacted by the Legislature of West Virginia:

That §55-7B-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 7B. MEDICAL PROFESSIONAL LIABILITY.

§ 55-7B-4. Health care injuries; limitations of actions; exceptions.

1 (a) A cause of action for injury to a person alleging medical

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1 professional liability against a health care provider arises as of the
2 date of injury, except as provided in subsection (b) of this section
3 and must be commenced within two years of the date of such injury,
4 or within two years of the date when such person discovers, or with
5 the exercise of reasonable diligence, should have discovered such
6 injury, whichever last occurs: *Provided*, That in no event shall any
7 such action be commenced more than ten years after the date of
8 injury.

9 (b) A cause of action for injury to a minor, ~~brought by or on~~
10 ~~behalf of a minor who was under the age of ten years at the time of~~
11 ~~such injury~~, shall be commenced ~~within two years of the date of~~
12 ~~such injury, or prior to the minor's twelfth birthday, whichever~~
13 ~~provides the longer period~~ in accordance with section fifteen, article
14 two of this chapter.

15 (c) The periods of limitation set forth in this section shall be
16 tolled for any period during which the health care provider or its
17 representative has committed fraud or collusion by concealing or
18 misrepresenting material facts about the injury.

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(NOTE: The purpose of this bill is to revise the statute of limitations on actions by minors under the Medical Professional Liability Act to make the current statute consistent with other provisions of the code governing statute of limitations on claims by minors.)