

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**Introduced**

## **House Bill 4550**

BY DELEGATES HAMRICK AND KEATON

[Introduced February 03, 2022; Referred to the  
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §55-7-32; and to amend and reenact §55-7B-8 of said code, all relating to  
3 eliminating a specific dollar amount or a range for the jury to consider with respect to  
4 awards for noneconomic damages in civil litigation.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 7. ACTIONS FOR INJURIES.**

### **§55-7-32. Limitation on noneconomic damages.**

1 In the trial of any civil tort action, no party or counsel for a party shall seek or refer to a  
2 specific dollar amount or state a range for the jury to consider with respect to awards of  
3 noneconomic damages.

## **ARTICLE 7B. MEDICAL PROFESSIONAL LIABILITY.**

### **§55-7B-8. Limit on liability for noneconomic loss.**

1 (a) In any professional liability action brought against a health care provider pursuant to  
2 this article, the maximum amount recoverable as compensatory damages for noneconomic loss  
3 may not exceed \$250,000 for each occurrence, regardless of the number of plaintiffs or the  
4 number of defendants or, in the case of wrongful death, regardless of the number of distributees,  
5 except as provided in subsection (b) of this section.

6 (b) The plaintiff may recover compensatory damages for noneconomic loss in excess of  
7 the limitation described in subsection (a) of this section, but not in excess of \$500,000 for each  
8 occurrence, regardless of the number of plaintiffs or the number of defendants or, in the case of  
9 wrongful death, regardless of the number of distributees, where the damages for noneconomic  
10 losses suffered by the plaintiff were for: (1) Wrongful death; (2) permanent and substantial  
11 physical deformity, loss of use of a limb or loss of a bodily organ system; or (3) permanent physical  
12 or mental functional injury that permanently prevents the injured person from being able to  
13 independently care for himself or herself and perform life-sustaining activities.

14 (c) On January 1, 2004, and in each year thereafter, the limitation for compensatory  
15 damages contained in subsections (a) and (b) of this section shall increase to account for inflation  
16 by an amount equal to the Consumer Price Index published by the United States Department of  
17 Labor, not to exceed one hundred fifty percent of the amounts specified in said subsections.

18 (d) The limitations on noneconomic damages contained in subsections (a), (b), (c) and (e)  
19 of this section are not available to any defendant in an action pursuant to this article which does  
20 not have medical professional liability insurance in the aggregate amount of at least \$1 million for  
21 each occurrence covering the medical injury which is the subject of the action.

22 (e) If subsection (a) or (b) of this section, as enacted during the 2003 regular session of  
23 the Legislature, or the application thereof to any person or circumstance, is found by a court of  
24 law to be unconstitutional or otherwise invalid, the maximum amount recoverable as damages for  
25 noneconomic loss in a professional liability action brought against a health care provider under  
26 this article shall thereafter not exceed \$1 million.

27 (f) In the trial of any civil tort action, no party or counsel for a party shall seek or refer to a  
28 specific dollar amount or state a range for the jury to consider with respect to awards of  
29 noneconomic damages.

NOTE The purpose of this bill is to eliminate a specific dollar amount or a range for the jury to consider with respect to awards for noneconomic damages in civil litigation.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.