

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 876**

Introduced by Howard, 9.

Read first time January 11, 2010

Committee: Judiciary

A BILL

1 FOR AN ACT relating to insurance; to amend sections 44-2825 and  
2 44-2832, Reissue Revised Statutes of Nebraska; to change  
3 recovery amounts under the Nebraska Hospital-Medical  
4 Liability Act; and to repeal the original sections.  
5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 44-2825, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           44-2825 ~~(1)~~ (1)(a) The total amount recoverable under the  
4 Nebraska Hospital-Medical Liability Act from any and all health  
5 care providers and the Excess Liability Fund for any occurrence  
6 resulting in any injury or death of a patient may not exceed  
7 ~~(a)~~ (i) five hundred thousand dollars for any occurrence on or  
8 before December 31, 1984, ~~(b)~~ (ii) one million dollars for any  
9 occurrence after December 31, 1984, and on or before December 31,  
10 1992, ~~(c)~~ (iii) one million two hundred fifty thousand dollars for  
11 any occurrence after December 31, 1992, and on or before December  
12 31, 2003, and ~~(d)~~ (iv) one million seven hundred fifty thousand  
13 dollars for any occurrence after December 31, 2003, and on or  
14 before December 31, 2010.

15           (b) For occurrences after December 31, 2010, for any  
16 occurrence resulting in any injury or death of a patient under the  
17 act, for damages recoverable from health care providers and the  
18 Excess Liability Fund in a settlement or judgment:

19           (i) The amount of economic damages is unlimited;

20           (ii)(A) If there are no economic damages, the amount of  
21 noneconomic damages recoverable is one million seven hundred fifty  
22 thousand dollars or less;

23           (B) If there are economic damages of less than one  
24 million seven hundred fifty thousand dollars, the amount of  
25 noneconomic damages recoverable shall be the difference between

1 one million seven hundred fifty thousand dollars and the amount of  
2 economic damages; and

3 (C) If there are economic damages of one million seven  
4 hundred fifty thousand dollars or more, no noneconomic damages are  
5 recoverable.

6 (c) For purposes of this section, economic damages  
7 and noneconomic damages have the same meaning as in section  
8 25-21,185.08.

9 (2) A health care provider qualified under the act shall  
10 not be liable to any patient or his or her representative who  
11 is covered by the act for an amount in excess of five hundred  
12 thousand dollars for all claims or causes of action arising from  
13 any occurrence during the period that the act is effective with  
14 reference to such patient.

15 (3) Subject to the overall limits from all sources as  
16 ~~provided in~~ subsection (1) of this section, any amount due from a  
17 judgment or settlement which is in excess of the total liability  
18 of all liable health care providers shall be paid from the Excess  
19 Liability Fund pursuant to sections 44-2831 to 44-2833.

20 Sec. 2. Section 44-2832, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 44-2832 (1) The Director of Administrative Services shall  
23 issue a warrant drawn on the fund in the amount of each claim  
24 submitted by the director. All claims against the fund shall be  
25 made on a voucher or other appropriate request by the director

1 after he or she has received:

2 (a) A certified copy of a final judgment in excess of  
3 five hundred thousand dollars against a health care provider and in  
4 excess of the amount recoverable from all health care providers;

5 (b) A certified copy of a court-approved settlement in  
6 excess of five hundred thousand dollars against a health care  
7 provider and in excess of the amount recoverable from all health  
8 care providers; or

9 (c) In case of claims based on primary insurance issued  
10 by the risk manager under sections 44-2837 to 44-2839, a certified  
11 copy of a final judgment or court-approved settlement requiring  
12 payment from the fund.

13 (2) The amount paid from the fund for excess liability  
14 when added to the payments by all health care providers may not  
15 exceed the ~~maximum~~ amount recoverable pursuant to subsection (1)  
16 of section 44-2825. The amount paid from the fund on account of  
17 a primary insurance policy issued by the risk manager to a health  
18 care provider under sections 44-2837 to 44-2839 may not exceed five  
19 hundred thousand dollars for any one occurrence covered by such  
20 policy ~~under any circumstances.~~ for noneconomic damages.

21 Sec. 3. Original sections 44-2825 and 44-2832, Reissue  
22 Revised Statutes of Nebraska, are repealed.