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An Act To Extend the Statute of Limitations for Certain Medical Malpractice Cases

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 24 MRSA §2902, as repealed and replaced by PL 1985, c. 804, §§13 and 22, is amended to read:

§ 2902. Statute of limitations for health care providers and health care practitioners

~~Actions for professional negligence shall~~must be commenced within 3 years after the ~~cause of action accrues~~plaintiff discovers or reasonably should have discovered the injury. ~~For the purposes of this section, a cause of action accrues on the date of the act or omission giving rise to the injury.~~ Notwithstanding the provisions of Title 14, section 853, relating to minority, actions for professional negligence by a minor ~~shall~~must be commenced within 6 years after the ~~cause of action accrues~~injury is discovered or within 3 years after the minor reaches the age of majority, whichever first occurs. ~~This section does not apply where the cause of action is based upon the leaving of a foreign object in the body, in which case the cause of action shall accrue when the plaintiff discovers or reasonably should have discovered the harm. For the purposes of this section, the term "foreign object" does not include a chemical compound, prosthetic aid or object intentionally implanted or permitted to remain in the patient's body as a part of the health care or professional services.~~

If the provision in this section reducing the time allowed for a minor to bring a claim is found to be void or otherwise invalidated by a court of proper jurisdiction, then the statute of limitations for professional negligence ~~shall be~~is 2 years after the ~~cause of action accrues~~injury is discovered, except that no claim brought under the 3-year statute may be extinguished by the operation of this paragraph.

SUMMARY

This bill changes the statute of limitations for medical malpractice from beginning when the act or omission happens to beginning when the harm is discovered by the plaintiff.