

FIRST REGULAR SESSION

SENATE BILL NO. 664

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CHILDERS.

Read 1st time February 27, 2003, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0255S.011

AN ACT

To repeal section 516.105, RSMo, relating to statutes of limitation for medical malpractice, and to enact in lieu thereof one new section relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 516.105, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 516.105, to read as follows:

516.105. All actions against physicians, hospitals, dentists, registered or licensed practical nurses, optometrists, podiatrists, pharmacists, chiropractors, professional physical therapists, and any other entity providing health care services and all employees of any of the foregoing acting in the course and scope of their employment, for damages for malpractice, negligence, error or mistake related to health care shall be brought within two years from the date of occurrence of the act of neglect complained of, except that:

(1) In cases in which the act of neglect complained of is introducing and negligently permitting any foreign object to remain within the body of a living person, the action shall be brought within two years from the date of the discovery of such alleged negligence, or from the date on which the patient in the exercise of ordinary care should have discovered such alleged negligence, whichever date first occurs; and

(2) In cases in which the act of neglect complained of is the negligent failure to inform the patient of the results of **abnormal** medical tests, the action for failure to inform shall be brought **against the physician who ordered the test unless the physician fails to receive the results of the abnormal medical test. Should the facility performing the test fail to notify the ordering physician of the results of an abnormal medical test, then that facility shall be the subject of the action of negligent failure to inform the**

patient of the result of the abnormal medical test. Evidence that the patient was informed of the abnormal medical test may include a conversation of record between the physician or the employee of the physician with the patient, a letter sent by United States mail to the patient's last known address, other methods of communication consistent with that particular patient-physician relationship, or some other method specifically requested by the patient. Any action shall be brought within two years from the date of the discovery of such alleged negligent failure to inform, or from the date on which the patient in the exercise of ordinary care should have discovered such alleged negligent failure to inform, whichever date first occurs; except that, no such action shall be brought for any negligent failure to inform about the results of medical tests performed more than two years before August 28, 1999; and

(3) In cases in which the person bringing the action is a minor less than eighteen years of age, such minor shall have until his or her twentieth birthday to bring such action.

In no event shall any action for damages for malpractice, error, or mistake be commenced after the expiration of ten years from the date of the act of neglect complained of or for ten years from a minor's twentieth birthday, whichever is later.

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