

2019 DRAFTING REQUEST

Bill

For: Christine Sinicki (608) 266-8588

Drafter: swalkenh

By: Mary Beth

Secondary Drafters:

Date: 1/27/2020

May Contact:

Same as LRB:

Submit via email: YES

Requester's email: Rep.Sinicki@legis.wisconsin.gov

Carbon copy (CC) to: sarah.walkenhorstbarber@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Increasing the cap on malpractice damages for pain and suffering

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	swalkenh 2/20/2020	kfollett 2/20/2020			
/P1			mbarman 2/20/2020		
/1			mbarman 2/20/2020	mbarman 2/20/2020	

FE Sent For:

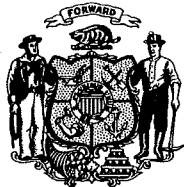
<END>

↳ Not Needed



Per Mary Beth (Rep. Smidke)

Draft bill that increases the cap on malpractice damages for pain and suffering, to quadruple its current level.



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-5510(?)  
SWB: [Signature]  
191

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

IN 2/20  
Requested today.  
PS

1 **AN ACT** ...; **relating to:** recovery of noneconomic damages in medical malpractice  
2 cases.

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***Analysis by the Legislative Reference Bureau***

by This bill increases the current law limit on noneconomic damages for injuries  
resulting from medical malpractice, establishing a limit on noneconomic damages for  
each occurrence of medical malpractice of ~~\$3,000,000~~ <sup>or \$2,000,000</sup> ~~\$3,000,000~~.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

3 **SECTION 1.** 655.017 of the statutes is amended to read:  
4 **655.017 Limitation on noneconomic damages.** The amount of  
5 noneconomic damages recoverable by a claimant or plaintiff under this chapter for  
6 acts or omissions of a health care provider if the act or omission occurs on or after  
7 April 6, 2006 the effective date of this section ... [LRB inserts date], and for acts or  
8 omissions of an employee of a health care provider, acting within the scope of his or  
9 her employment and providing health care services, for acts or omissions occurring



1 on or after ~~April 6, 2006~~ the effective date of this section ... [LRB inserts date], is  
2 subject to the limits under s. 893.55 (4) (d) and (f).

History: 1985 a. 340; 1995 a. 10; 2005 a. 183.

3 **SECTION 2.** 893.55 (1d) of the statutes is repealed and recreated to read:



4 **893.55 (1d) (a)** The objective of the treatment of this section is to ensure  
5 affordable and accessible health care for all of the citizens of Wisconsin while  
6 providing adequate compensation to the victims of medical malpractice. Achieving  
7 this objective requires a balancing of many interests. The legislature finds that the  
8 limitation of \$3,000,000 represents an appropriate balance between providing  
9 reasonable compensation for noneconomic damages associated with medical  
10 malpractice and ensuring affordable and accessible health care.

11 **SECTION 3.** 893.55 (4) (b) of the statutes is amended to read:

12 893.55 (4) (b) The total noneconomic damages recoverable for bodily injury,  
13 including any action or proceeding based on contribution or indemnification and any  
14 action for a claim by a person other than the injured person for noneconomic damages  
15 recoverable for bodily injury, may not exceed the limit under par. (d) for each  
16 occurrence on or after ~~April 6, 2006~~ the effective date of this paragraph ... [LRB  
17 inserts date], from all health care providers and all employees of health care  
18 providers acting within the scope of their employment and providing health care  
19 services who are found negligent and from the injured patients and families  
20 compensation fund.

21 **SECTION 4.** 893.55 (4) (d) 1. of the statutes is amended to read:



## Walkenhorst Barber, Sarah

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**From:** Rep.Sinicki  
**Sent:** Thursday, February 20, 2020 4:17 PM  
**To:** Walkenhorst Barber, Sarah  
**Subject:** RE: Draft review: LRB -5510/P1

Sarah, she says this looks good and would like to jacket it. We may do something more with it next session, but for now, it's good to go! Thank you so much!

*Best regards,*

*Mary Beth George*

Office of State Rep. Christine Sinicki  
20<sup>th</sup> Assembly District  
Room 114, North Capitol  
608-266-8588  
[rep.sinicki@legis.wi.gov](mailto:rep.sinicki@legis.wi.gov)

*This message is intended for the sole use of the individual and entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended addressee, nor authorized to receive for the intended addressee, you are hereby notified that you may not use, copy, disclose or distribute to anyone the message or any information contained in the message. If you have received this message in error, please immediately advise the sender by reply email and delete the message.*

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**From:** Walkenhorst Barber, Sarah <[Sarah.WalkenhorstBarber@legis.wisconsin.gov](mailto:Sarah.WalkenhorstBarber@legis.wisconsin.gov)>  
**Sent:** Thursday, February 20, 2020 3:59 PM  
**To:** George, Mary Beth <[MaryBeth.George@legis.wisconsin.gov](mailto:MaryBeth.George@legis.wisconsin.gov)>  
**Subject:** FW: Draft review: LRB -5510/P1

Hi Mary Beth,

Just so you would have something in hand, I took a shot at a /p1 on this. Happy to make any changes, but thought this would give you a place to start.

Best,  
Sarah

**Sarah Walkenhorst Barber**

Senior Legislative Attorney  
Wisconsin Legislative Reference Bureau  
P.O. Box 2037  
Madison, WI 53701-2037  
**(608) 504-5826**  
[sarah.walkenhorstbarber@legis.wisconsin.gov](mailto:sarah.walkenhorstbarber@legis.wisconsin.gov)

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**From:** LRB.Legal <[lrblegal@legis.wisconsin.gov](mailto:lrblegal@legis.wisconsin.gov)>  
**Sent:** Thursday, February 20, 2020 3:57 PM  
**To:** Walkenhorst Barber, Sarah <[Sarah.WalkenhorstBarber@legis.wisconsin.gov](mailto:Sarah.WalkenhorstBarber@legis.wisconsin.gov)>  
**Subject:** Draft review: LRB -5510/P1

**Draft Requester: Rep. Christine Sinicki**

**Following is the PDF version of draft LRB -5510/P1.**



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-5510/P1  
SWB:kjf

A handwritten signature or initials in the top right corner.

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1 **AN ACT to amend** 655.017, 893.55 (4) (b) and 893.55 (4) (d) 1.; and **to repeal and**  
2 **recreate** 893.55 (1d) of the statutes; **relating to:** recovery of noneconomic  
3 damages in medical malpractice cases.

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*Analysis by the Legislative Reference Bureau*

This bill increases the current law limit on noneconomic damages for injuries resulting from medical malpractice by establishing a limit of \$3,000,000 on noneconomic damages for each occurrence of medical malpractice.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

4 **SECTION 1.** 655.017 of the statutes is amended to read:  
5 **655.017 Limitation on noneconomic damages.** The amount of  
6 noneconomic damages recoverable by a claimant or plaintiff under this chapter for  
7 acts or omissions of a health care provider if the act or omission occurs on or after  
8 ~~April 6, 2006~~ the effective date of this section ... [LRB inserts date], and for acts or  
9 omissions of an employee of a health care provider, acting within the scope of his or



1 her employment and providing health care services, for acts or omissions occurring  
2 on or after ~~April 6, 2006~~ the effective date of this section .... [LRB inserts date], is  
3 subject to the limits under s. 893.55 (4) (d) and (f).

4 **SECTION 2.** 893.55 (1d) of the statutes is repealed and recreated to read:

5 893.55 (1d) The objective of the treatment of this section is to ensure affordable  
6 and accessible health care for all of the citizens of Wisconsin while providing  
7 adequate compensation to the victims of medical malpractice. Achieving this  
8 objective requires a balancing of many interests. The legislature finds that the  
9 limitation of \$3,000,000 represents an appropriate balance between providing  
10 reasonable compensation for noneconomic damages associated with medical  
11 malpractice and ensuring affordable and accessible health care.

12 **SECTION 3.** 893.55 (4) (b) of the statutes is amended to read:

13 893.55 (4) (b) The total noneconomic damages recoverable for bodily injury,  
14 including any action or proceeding based on contribution or indemnification and any  
15 action for a claim by a person other than the injured person for noneconomic damages  
16 recoverable for bodily injury, may not exceed the limit under par. (d) for each  
17 occurrence on or after ~~April 6, 2006~~ the effective date of this paragraph .... [LRB  
18 inserts date], from all health care providers and all employees of health care  
19 providers acting within the scope of their employment and providing health care  
20 services who are found negligent and from the injured patients and families  
21 compensation fund.

22 **SECTION 4.** 893.55 (4) (d) 1. of the statutes is amended to read:



**Barman, Mike**

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**From:** LRB.Legal  
**To:** Rep.Sinicki@legis.wisconsin.gov  
**Subject:** Draft review: LRB -5510/1  
**Attachments:** 19-5510/1

**State of Wisconsin - Legislative Reference Bureau**  
**One East Main Street - Suite 200 - Madison**

**The attached draft was prepared at your request. Please review it carefully to ensure that it satisfies your intent.** If you have any questions concerning the draft or would like to have it redrafted, please contact Sarah Walkenhorst Barber, Legislative Attorney, at (608) 504-5826, at [sarah.walkenhorstbarber@legis.wisconsin.gov](mailto:sarah.walkenhorstbarber@legis.wisconsin.gov), or at One East Main Street, Suite 200.

**We will jacket this draft for introduction in the Assembly.**

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will submit a request to DOA when the draft is introduced. You may obtain a fiscal estimate on the draft prior to introduction by contacting our program assistants at [LRB.Legal@legis.wisconsin.gov](mailto:LRB.Legal@legis.wisconsin.gov) or at (608) 266-3561. If you requested a fiscal estimate on an earlier version of this draft and would like to obtain a fiscal estimate on the current version before it is introduced, you will need to request a revised fiscal estimate from our program assistants.

**Please call our program assistants at (608) 266-3561 if you have any questions regarding this email.**