
KEY PROVISIONS OF OHIO TORT REFORM

S.B. 281 (Applies to Causes of Action that Accrue on or after 04/11/2003)

Fee and Cost Shifting – Permits defendant to obtain court costs and attorneys' fees if no reasonable good faith basis existed for plaintiff's claim. (R.C. 2323.42)

Damage Caps – Limits non-economic loss to \$350,000/plaintiff or \$500,000/occurrence unless permanent loss/substantial physical deformity, then \$500,000/plaintiff or \$1 million/occurrence. (R.C. 2323.43)

Periodic Payments – Regulates future damages awards exceeding \$50,000, utilizing periodic payment plans. (R.C. 2323.55)

Collateral Source – Defendant can introduce evidence of some collateral benefits. (R.C. 2323.41)

Arbitration Agreements – Arbitration agreement entered into prior to care is binding. (R.C. 2711.22, 2711.23)

Statute of Repose – Statute of repose bars actions filed more than 4 years after the incident giving rise to the claim except for minors, persons of unsound mind, or others who could not have discovered injury (for example, due to an undiscovered foreign body). (R.C. 2305.113)

S.B. 120 (Applies to Causes of Action that Accrue on or after 04/09/2003)

Percentage Share of Fault – **A)** If defendant is liable for more than 50% of tortious conduct, then defendant is jointly and severally liable for all compensatory damages representing economic loss. **B)** If defendant is liable for less than 50% of tortious conduct, then defendant is only liable for its proportionate share of compensatory damages representing economic loss. (R.C. 2307.22)

Regarding Non-economic Damages – Defendants are only liable for their proportionate share of damages, regardless of their degree of fault. (R.C. 2307.22)

Set Offs – Full set-off allowed even without a finding that a defendant is liable in tort. (R.C. 2307.28)

Empty Chairs – Allows jury to apportion fault to non-parties. (R.C. 2307.23, 2315.33-.36)

S.B. 179 (Applies to Causes of Action that Accrue on or after 04/09/2003)

Credentialing – Creates rebuttable presumption that accredited health care entity is not negligent in its credentialing. (R.C. 2305.251)

Immunity – Grants immunity to peer review committee members. (R.C. 2305.251)

Reports – Expands incident report confidentiality. (R.C. 2305.253)

Peer Review – Expands peer review confidentiality (R.C. 2305.252); restates and strengthens prior provisions that proceedings and records within scope of the peer review committee are confidential and cannot be used in certain civil actions, and codifies some case law.

H.B. 215 (Effective 09/13/2004)

Expressions of Sympathy – Prohibits the use of defendant's statements of sympathy as evidence. (R.C. 2317.43)

Experts - Tightens qualifications for expert witnesses. (R.C. 2743.43)

Early Dismissal - Provides for the use of affidavits of noninvolvement to dismiss suit. (R.C. 2323.45)

Reporting - Regulates the collection and disclosure of medical claim data from insurers. (R.C. 3929.302)

Expert Certificate – Requires plaintiff to include a certificate of expert review as to each defendant when filing medical claims. (Proposed Civil Rule is pending before Ohio Supreme Court for approval)

Sub H.B. 212 (Effective 06/06/2004)

Prejudgment Interest - If liability is not admitted, accrues from date of claim or filing date (not from date cause of action accrues). (R.C. 1343.03(C))

Rate - Statutory rate of interest now tied to federal short term rate; no longer 10%. (R.C. 1343.03(A), R.C. 5703.47)

Future Damages - Interest not allowed; requires jury to answer interrogatories on past and future damages. (R.C. 1343.03(C))