

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

*As Engrossed: S3/21/13 S3/25/13*

# A Bill

SENATE BILL 1162

5 By: Senator J. Dismang  
6

## For An Act To Be Entitled

8 AN ACT TO SUBSUME VARIOUS CAUSES OF ACTION FOR HEALTH  
9 CARE INJURIES AGAINST A MEDICAL CARE PROVIDER UNDER A  
10 SINGLE REMEDY; AND FOR OTHER PURPOSES.

## Subtitle

11  
12  
13  
14 TO SUBSUME VARIOUS CAUSES OF ACTION FOR  
15 HEALTH CARE INJURIES UNDER A SINGLE  
16 REMEDY.  
17  
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

21 SECTION 1. DO NOT CODIFY. Intent – Limitation.

22 (a) This act is intended to ensure that:

23 (1) A person who suffers a medical injury has the opportunity to  
24 seek compensation to return to the state of health that he or she enjoyed  
25 before the medical injury; and

26 (2) For any one (1) medical injury, a person is not compensated  
27 more than once.

28 (b) This act is not intended to affect punitive damages.  
29

30 SECTION 2. Arkansas Code § 16-62-102, concerning wrongful death  
31 actions, is amended to add an additional subsection to read as follows:

32 (j) This section does not apply to an action under § 16-114-201 et  
33 seq.  
34

35 SECTION 3. Arkansas Code § 16-114-201(1), concerning definitions for  
36 actions for medical injury, is amended to read as follows:



1 (1) "Action for medical injury" means ~~any action~~ all actions  
2 against a medical care provider, whether based in tort, contract, or  
3 otherwise, to recover damages on account of medical injury as defined in §  
4 16-114-201;

5  
6 SECTION 4. Arkansas Code § 16-114-201(3), concerning definitions for  
7 actions for medical injury, is amended to read as follows:

8 (3) "Medical injury" or "injury" means any adverse consequences  
9 arising out of or sustained in the course of the professional services being  
10 rendered by a medical care provider to a patient or resident, whether  
11 resulting from negligence, error, or omission in the performance of such  
12 services; or from rendition of such services without informed consent or in  
13 breach of warranty or in violation of contract; or from failure to diagnose;  
14 or from premature abandonment of a patient or of a course of treatment; or  
15 from failure to properly maintain equipment or appliances necessary to the  
16 rendition of such services; or otherwise arising out of or sustained in the  
17 course of such services.

18  
19 SECTION 5. Arkansas Code Title 16, Chapter 114, Subchapter 2, is  
20 amended to add an additional section to read as follows:

21 16-114-213. Sole remedy.

22 This subchapter is the sole remedy with respect to any action for  
23 medical injury against a medical care provider.

24  
25 SECTION 6. Arkansas Code § 20-10-1209(a)(1), concerning civil  
26 enforcement for the protection of long-term care facility residents, is  
27 amended to read as follows:

28 (a)(1) Any resident who is injured by a deprivation or infringement of  
29 his or her rights as specified in this subchapter may bring a cause of action  
30 under § 16-114-201 et seq., against any licensee responsible for the  
31 deprivation or infringement.

32  
33 SECTION 7. Arkansas Code § 20-10-1209, concerning civil enforcement  
34 for the protection of long-term care facility residents, is amended to add an  
35 additional subsection to read as follows:

36 (d)(1) A deprivation or infringement of rights under this subchapter

1 does not itself create an additional cause of action.

2 (2) However, a deprivation or infringement of rights under this  
3 subchapter may be used as evidence of negligence.

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

/s/J. Dismang