

1 **SENATE FLOOR VERSION**

2 February 28, 2017

3 **AS AMENDED**

4 SENATE BILL NO. 762

5 By: Sykes

6 **[statutes of limitation - certain actions - repealer**
7 **- codification - effective date]**

8
9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

10 SECTION 1. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 18.1 of Title 76, unless there
12 is created a duplication in numbering, reads as follows:

13 A. As used in this section:

14 1. "Continuous treatment" shall not include examinations
15 undertaken at the request of the patient for the sole purpose of
16 ascertaining the state of the patient's condition;

17 2. "Foreign object" shall not include a chemical compound,
18 fixation device or prosthetic aid or device intentionally implanted
19 or permitted to remain in the patient's body as a part of the health
20 care services;

21 3. "Health care provider" means any doctor of medicine, doctor
22 of osteopathy or hospital licensed by this state to provide health
23 care services or an officer, employee or agent thereof acting in the
24 course and scope of employment; and

1 4. "Health care services" means acts of diagnosis, treatment,
2 medical evaluation or advice or such other acts as may be
3 permissible under the health care licensing statutes of this state.

4 B. An action based on tort, contract or otherwise, for damages
5 for injury or death against a health care provider for alleged
6 professional negligence, for the performance of health care services
7 without consent, or for error or omission in the practice of the
8 health care provider's profession, which occurs on or after the
9 effective date of this act, shall be commenced within two (2) years
10 of the act, omission or failure complained of or of the last
11 treatment where there was continuous treatment for the same illness,
12 injury or condition which gave rise to the act, omission or failure.
13 Where the action is based upon the discovery of a foreign object in
14 the patient's body which is not discovered and could not have
15 reasonably been discovered within such two-year period, the action
16 shall be commenced within one year of the date of such discovery or
17 of the date of discovery of facts which would reasonably lead to
18 such discovery, whichever is earlier. The time within which an
19 action shall be commenced shall not be extended by any of the
20 provisions of this section, including those relating to the
21 discovery of foreign objects, beyond four (4) years after the date
22 of the act, omission or failure giving rise to such action.

23 C. This act applies to all persons regardless of minority or
24 other legal disability, except that a minor, who was less than eight

1 (8) years old at the time of the act, omission, or failure, shall
2 commence such action within two (2) years of the date on which the
3 minor becomes ten (10) years old. Furthermore, for a minor who was
4 less than eight (8) years old at the time of the act, omission, or
5 failure, the time within which such action shall be commenced shall
6 not be extended by any provision of this section beyond four (4)
7 years after the date on which the minor becomes ten (10) years old.

8 SECTION 2. REPEALER 76 O.S. 2011, Section 18, is hereby
9 repealed.

10 SECTION 3. This act shall become effective November 1, 2017.

11 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
12 February 28, 2017 - DO PASS AS AMENDED
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