

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 765

By: Sykes

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5
6 AS INTRODUCED

7 An Act relating to statutes of limitation; defining
8 terms; establishing statutes of limitation for
9 certain actions; stating applicability of provisions;
10 repealing 76 O.S. 2011, Section 18, which relates to
11 limitation of actions; providing for codification;
12 and providing an effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

17 A. As used in this section:

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

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

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

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

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

1 the discovery of foreign objects, beyond four (4) years after the
2 date of the act, omission or failure giving rise to such action.

3 C. This act applies to all persons regardless of minority or
4 other legal disability, except that a minor who was less than eight
5 (8) years old at the time of the act, omission, or failure, shall
6 commence such action within two (2) years of the date on which the
7 minor becomes ten (10) years old. Furthermore, for a minor who was
8 less than eight (8) years old at the time of the act, omission, or
9 failure, the time within which such action shall be commenced shall
10 not be extended by any provision of this section beyond four (4)
11 years after the date on which the minor becomes ten (10) years old.

12 SECTION 2. REPEALER 76 O.S. 2011, Section 18, is hereby
13 repealed.

14 SECTION 3. This act shall become effective November 1, 2015.

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