

1 **SENATE FLOOR VERSION**

2 February 24, 2015

3 **AS AMENDED**

4 SENATE BILL NO. 765

By: Sykes of the Senate

and

McCullough of the House

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

10
11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

15 A. As used in this section:

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

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

23 3. "Health care provider" means any doctor of medicine, doctor
24 of osteopathy or hospital licensed by this state to provide health

1 care services or an officer, employee or agent thereof acting in the
2 course and scope of employment; and

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

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

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

10 SECTION 2. REPEALER 76 O.S. 2011, Section 18, is hereby
11 repealed.

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

13 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
14 February 24, 2015 - DO PASS AS AMENDED
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