

**IN THE GENERAL ASSEMBLY
STATE OF _____**

An Act

Statute of limitations in medical injury cases

1 Be it enacted by the People of the State of _____, represented in the General
2 Assembly:

3 **Section 1. Definitions.** As used in this Act:

4 (a) "Health care provider"* means any doctor of medicine, doctor of osteopathy or
5 hospital licensed by this State to provide health care services or an officer,
6 employee or agent thereof acting in the course and scope of employment.

7 (b) "Health care services" means acts of diagnosis, treatment, medical evaluation or
8 advice or such other acts as may be permissible under the health care licensing
9 statutes of this State.

10 **Section 2. Requirements.** An action based on tort, contract or otherwise, for damages
11 for injury or death against a health care provider for alleged professional negligence, or for the
12 performance of health care services without consent, or for error or omission in the practice of the
13 health care provider's profession, which occurs on or after the effective date of this act, shall be
14 commenced within two years of the act, omission or failure complained of or of last treatment
15 where there is continuous treatment for the same illness, injury or condition which gave rise to
16 the said act, omission or failure. Where the action is based upon the discovery of a foreign object
17 in the patient's body which is not discovered and could not have reasonably been discovered
18 within such two year period, the action may be commenced within one year of the date of such
19 discovery or of the date of discovery of facts which would reasonably lead to such discovery,

* May designate other health professionals licensed by the State.

1 whichever is earlier. The time within which an action must be commenced shall not be extended
2 by any of the provisions of this section including those relating to the discovery of foreign objects
3 beyond four years after the date of the act, omission or failure giving rise to such action.

4 **Section 3.** This act applies to all persons regardless of minority or other legal disability,
5 except that a minor under the full age of eight (8) years shall have until his/her tenth birthday to
6 file suit based on a cause of action which accrued prior to his/her eighth birthday.

7 **Section 4.** For the purpose of this Act:

8 (a) the term “continuous treatment” shall not include examinations undertaken at the
9 request of the patient for the sole purpose of ascertaining the state of the patient’s
10 condition; and

11 (b) the term “foreign object” shall not include a chemical compound, fixation device or
12 prosthetic aid or device intentionally implanted or permitted to remain in the
13 patient’s body as a part of the health care services.