



**FINAL**  
**FISCAL NOTE**

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**Drafting Number:** LLS 08-0821**Date:** May 27, 2008**Prime Sponsor(s):** Sen. Groff  
Rep. Carroll T.**Bill Status:** Postponed Indefinitely**Fiscal Analyst:** Jessika Shipley (303-866-3528)

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**TITLE:** CONCERNING THE ALIGNMENT OF THE LIMITATION ON DAMAGES FOR NONECONOMIC LOSS OR INJURY IN ACTIONS BROUGHT PURSUANT TO THE "HEALTH CARE AVAILABILITY ACT" WITH THE LIMITATION ON DAMAGES FOR NONECONOMIC LOSS OR INJURY IN GENERAL CIVIL ACTIONS.

### **Summary of Legislation**

This bill changes the definition of non-economic damages with regard to medical malpractice actions to exclude physical impairment or disfigurement. The bill aligns the cap for non-economic damages in medical malpractice actions, occurring on or after February 1, 2009, with those of all other civil actions. The limit for non-economic damage awards was adjusted for inflation as of January 1, 2008, and set at \$468,010. The bill prohibits the court from exceeding the non-economic damages cap in medical malpractice cases and it specifies that the limitations on damages for actions against public employees or entities is not changed.

The bill provides that medical malpractice insurance rates may not be held inadequate as a result of the passage of this bill unless an insurer can show just cause for doing so.

The bill was postponed indefinitely by the House Judiciary Committee on April 30, 2008.

### **Assessment**

This bill applies only to cases that are resolved by trial, which includes approximately 2 percent of medical malpractice cases filed in district court. The bill is expected to slightly increase the number of hearings on the issue of whether there is clear and convincing evidence to exceed the non-economic damage cap. The increase in workload is assumed to be minimal and can be absorbed within existing resources. Given that the bill will not increase state or local revenues or expenditures, it is assessed as having no fiscal impact.

### **Departments Contacted**

Judicial