

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

592A0448

SENATE BILL NO. 213

Introduced by: Senators Olson, Dunn (Jim), Halverson, and Staggers and Representatives Gabriel, Barker, Belatti, Eccarius, Hassard, Pederson (Gordon), Rost, and Windhorst

1 FOR AN ACT ENTITLED, An Act to make certain legislative findings concerning the case of
2 *Knowles vs. United States* and to clarify its application to certain practitioners of the healing
3 arts and their employers.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. As a result of the decision of the South Dakota Supreme Court in *Knowles vs.*
6 *United States*, 1996 SD 10, 544 NW2d 183 (1996), the Legislature accepts the court's analysis
7 and finds that Chapter 167 of the Session Laws of 1985 is now and has been part of the South
8 Dakota Codified Laws since its effective date, codified as § 21-3-11. The Legislature further
9 finds that the statute as revived should be amended to reflect the court's rationale that the validity
10 of the statute extends only to those practitioners justifying the need for statutory intervention
11 during the legislative interim preceding the 1976 Legislative Session. Finally, the Legislature
12 finds that amendment of the revived statute is necessary to recognize the evolution of levels of
13 licensure from the time of initial passage of the statute to the present for the practitioners and
14 entities addressed by the original version of the statute.

15 Section 2. That § 21-3-11 be amended to read as follows:

1 21-3-11. In any action for damages for personal injury or death alleging medical malpractice
2 against any physician licensed pursuant to chapter 36-4, ~~chiropractor~~, dentist, dental hygienist,
3 dental assistant, hospital, ~~sanatorium~~ rural primary care hospital, registered nurse ~~or~~, licensed
4 practical nurse, certified registered nurse anesthetist, nurse practitioner, nurse midwife or
5 physician's assistant, or against the practitioner's corporate, limited liability partnership or limited
6 liability company employer based upon the acts or omissions of the practitioner, under the laws
7 of this state, whether taken through the court system or by binding arbitration, the total general
8 damages which may be awarded may not exceed the sum of five hundred thousand dollars. There
9 is no limitation on the amount of special damages which may be awarded. This section applies
10 only to causes of action arising from injuries or death occurring after July 1, 1976. ~~However, in~~
11 ~~the case of chiropractors, it applies only to the causes of action arising from injuries or death~~
12 ~~occurring after July 1, 1989.~~