

State of South Dakota

SEVENTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 1997

592A0448

SENATE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB213** - 2/13/97

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 finds that
9 amendment of the revived statute is necessary to recognize the evolution of levels of licensure
10 from the time of initial passage of the statute to the present for the practitioners and entities
11 addressed by the original version of the statute.

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

13 21-3-11. In any action for damages for personal injury or death alleging malpractice against
14 any physician licensed pursuant to chapter 36-4, chiropractor, dentist, dental hygienist, dental

1 assistant, hospital, sanatorium rural primary care hospital, registered nurse or, licensed practical
2 nurse, certified registered nurse anesthetist, clinical nurse specialist, nurse practitioner, nurse
3 midwife or physician's assistant, or against the practitioner's corporate, limited liability
4 partnership or limited liability company employer based upon the acts or omissions of the
5 practitioner, under the laws of this state, whether taken through the court system or by binding
6 arbitration, the total general damages which may be awarded may not exceed the sum of five
7 hundred thousand dollars. There is no limitation on the amount of special damages which may
8 be awarded. This section applies only to causes of action arising from injuries or death occurring
9 after July 1, 1976. However, in the case of chiropractors, it applies only to the causes of action
10 arising from injuries or death occurring after July 1, 1978.

1 **BILL HISTORY**

2 1/30/97 First read in Senate and referred to Health and Human Services. S.J. 239

3 2/3/97 Health and Human Services Do Pass Amended, Failed, AYES 3, NAYS 4. S.J. 278

4 2/3/97 Deferred to another day.

5 2/10/97 Scheduled for Committee hearing on this date.

6 2/12/97 Scheduled for Committee hearing on this date.

7 2/12/97 Health and Human Services Do Pass Amended, AYES 6, NAYS 0. S.J. 404