

March 3, 2023

Senator Ron Latz and Representative Sandra Feist,

Thank you for bringing forward the important issue of survivability of claims in SF997/HF1019. I support the bill and urge its passing. I am the legal advisor for Elder Voice Advocates as well as a solo practicing attorney in the area of elder abuse and neglect. I have seen firsthand how Minn. Stat. §§573.01 and .02 operate to disadvantage our elder population.

I want to focus on §573.02, subd. 2, which is particularly disadvantageous. §573.02, subd. 2 allows for special damages when an injured party dies of unrelated causes, which is virtually all injured elders due to limited life span and other health conditions. Special damages are generally medical bills only. The injured elder lacks one key resource compared to younger injured parties – time. They lack time to bring claims of injury while alive. We are leaving an entire group of our population without a remedy for harm. A group that is perhaps more prone to injury and maltreatment due to vulnerabilities yet also more likely to die of unrelated causes. We are disproportionately not allowing compensation for harm for them. Many younger injured parties remain alive after injury to bring their claims and receive an award of damages that includes pain and suffering. Yet if an injured elder cannot remain alive long enough to conclude an injury claim (which can take up to two years), their claim essentially dies with them. When claims survive, pain and suffering are compensable damages. When claims do not survive, pain and suffering are not considered. Pain and suffering is often the only and main damage a victim of elder abuse may have suffered, which is not compensable when the claim does not survive.

When you live these scenarios and witness the devastating effects of the lack of survivability, it is palpable. Seek to understand the disparity to elders and the harsh result when they are injured due to negligence. Sexual assaults, double amputations, pressure wounds the size of a plate, broken necks and spines, severe burns, hypothermia from wandering for hours in subzero temp, and sepsis. Tremendously painful experiences that last for days and weeks, not just hours. Yet their claims do not survive. Call it ageism, discrimination, egregious, or injustice towards a group of Minnesotans, but please call it “unacceptable.” The results of the law are to devalue, brush aside, and rationalize harm to our most vulnerable. The most common reason by far that families seek accountability in a legal claim after their elderly loved one is injured or dies due to negligence is to prevent the same thing from happening to someone else. However, the current law provides little incentive to do better.

Let’s elevate the rights of injured elders. This law helps level the playing field when their claims survive. The time has come for the law to change. The alternative is unacceptable. We cannot remain the only state to not allow claims to survive. Please vote yes for SF997/HF1019.

Sincerely,

*/s/ Suzanne Scheller*

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