

§ 5-109. Suits against health care providers, MD CTS & JUD PRO § 5-109

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KeyCite Red Flag - Severe Negative Treatment

Unconstitutional or PreemptedHeld Unconstitutional by [Piselli v. 75th Street Medical, Md.](#), Oct. 08, 2002

[West's Annotated Code of Maryland](#)

[Courts and Judicial Proceedings](#)

[Title 5. Limitations, Prohibited Actions, and Immunities \(Refs & Annos\)](#)

[Subtitle 1. Limitations \(Refs & Annos\)](#)

MD Code, Courts and Judicial Proceedings, § 5-109

§ 5-109. Suits against health care providers

[Currentness](#)

**In general**

(a) An action for damages for an injury arising out of the rendering of or failure to render professional services by a health care provider, as defined in [§ 3-2A-01](#) of this article, shall be filed within the earlier of:

- (1) Five years of the time the injury was committed; or
- (2) Three years of the date the injury was discovered.

**Claimants under 11 years of age at time of injury**

(b) Except as provided in subsection (c) of this section, if the claimant was under the age of 11 years at the time the injury was committed, the time limitations prescribed in subsection (a) of this section shall commence when the claimant reaches the age of 11 years.

**Injuries to reproductive system of claimant or foreign objects left in claimant's body**

(c)(1) The provisions of subsection (b) of this section may not be applied to an action for damages for an injury:

- (i) To the reproductive system of the claimant; or
- (ii) Caused by a foreign object negligently left in the claimant's body.

(2) In an action for damages for an injury described in this subsection, if the claimant was under the age of 16 years at the time the injury was committed, the time limitations prescribed in subsection (a) of this section shall commence when the claimant reaches the age of 16 years.

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**Filing claim with Health Care Alternative Dispute Resolution Office**

(d) For the purposes of this section, the filing of a claim with the Health Care Alternative Dispute Resolution Office in accordance with § 3-2A-04 of this article shall be deemed the filing of an action.

**Construction with § 5-201 relating to causes of action by a minor**

(e) The provisions of § 5-201 of this title that relate to a cause of action of a minor may not be construed as limiting the application of subsection (b) or (c) of this section.

**Construction with §§ 5-201 and 5-203**

(f) Nothing contained in this section may be construed as limiting the application of the provisions of:

(1) § 5-201 of this title that relate to a cause of action of a mental incompetent; or

(2) § 5-203 of this title.

**Credits**

Added by Acts 1987, c. 592, § 1, eff. July 1, 1987. Amended by Acts 1988, c. 6, § 1, eff. Feb. 18, 1988; Acts 2004, 1st Sp. Sess., c. 5, § 5, eff. Jan. 11, 2005.

**Editors' Notes**

**VALIDITY**

<See [Piselli v. 75th Street Medical](#), 2002, 808 A.2d 508, 371 Md. 188.>

[Notes of Decisions \(45\)](#)

MD Code, Courts and Judicial Proceedings, § 5-109, MD CTS & JUD PRO § 5-109  
Current through Chapters 1 to 7, 11, 12, 16, 34, 35, 37 to 40, 64, 65, 69, 79, 80, 142, 147, 199, 200 & 325 from the 2018 Regular Session of the General Assembly