

Document: C.R.S. 13-80-102.5



[◀ Previous](#)

[Next ▶](#)

C.R.S. 13-80-102.5

[Copy Citation](#)

The Colorado Constitution and Titles 3, 4, 21, and 41 have been updated and are current through all laws passed during the 2020 Legislative Session, subject to review by the Colorado Office of Legislative Legal Services. Other statutory titles are current through all laws passed during the 2019 Legislative Session and are in the process of being updated.

[CO - Colorado Revised Statutes Annotated](#) [TITLE 13. COURTS AND COURT PROCEDURE](#) [LIMITATION OF ACTIONS](#) [ARTICLE 80. LIMITATIONS- PERSONAL ACTIONS](#)

13-80-102.5. Limitation of actions - medical or health care

(1) Except as otherwise provided in this section or section 25.5-4-307, C.R.S., no action alleging negligence, breach of contract, lack of informed consent, or other action arising in tort or contract to recover damages from any health care institution, as defined in paragraph (a) of subsection (2) of this section, or any health care professional, as defined in paragraph (b) of subsection (2) of this section, shall be maintained unless such action is instituted within two years after the date that such action accrues pursuant to section 13-80-108 (1), but in no event shall an action be brought more than three years after the act or omission which gave rise to the action.

(2) For the purposes of this section:

(a) "Health care institution" means any hospital, health care facility, dispensary, clinic, or other institution which is licensed or certified as such under the laws of this state.

(b) "Health care professional" means any physician, nurse, dentist, chiropractor, pharmacist, optometrist, psychologist, podiatrist, physical therapist, or other health care practitioner who is licensed to perform such profession under the laws of this state.

(3) The limitation of actions provided in subsection (1) of this section shall not apply under the following circumstances:

(a) If the act or omission which gave rise to the cause of action was knowingly concealed by the person committing such act or omission, in which case the action may be maintained if

instituted within two years after the person bringing the action discovered, or in the exercise of reasonable diligence and concern should have discovered, the act or omission; or

(b) If the act or omission consisted of leaving an unauthorized foreign object in the body of the patient, in which case the action may be maintained if instituted within two years after the person bringing the action discovered, or in the exercise of reasonable diligence and concern should have discovered, the act or omission; or

(c) If both the physical injury and its cause are not known or could not have been known by the exercise of reasonable diligence; or

(d) If the action is brought by or on behalf of:

(I) A minor under eight years of age who was under six years of age on the date of the occurrence of the act or omission for which the action is brought, in which case the action may be maintained at any time prior to his attaining eight years of age; or

(II) A person otherwise under disability as defined in section 13-81-101, in which case the action may be maintained within the time period as provided in section 13-81-103.

History

Source: **L. 88:** Entire section added, p. 626, § 1, effective July 1. **L. 2013:** (1) amended, (SB 13-205), ch. 276, p. 1440, § 1, effective August 7.

▼ Annotations

Case Notes

ANNOTATION

Law reviews. For article, "1988 Update on Colorado Tort Reform Legislation -- Part I", see 17 Colo. Law. 1790 (1988).

Annotator's note. For annotations relating to the statute of repose, formerly found in § 13-80-105 prior to the 1986 repeal and reenactment of this article and now found in this section, see the annotations for § 13-80-108 under the headings "VII. Injuries." and "IX. Former Statute of Repose.".

Given the express language of the knowing concealment exception, it is necessary for a patient to demonstrate only that a negligent act or omission has been committed by the physician and then knowingly concealed, but not necessary to show that the patient also suspected or discovered that concealment. *Boyett v. Smith*, 888 P.2d 294 (Colo. App. 1994), *aff'd*, 908 P.2d 508 (Colo. 1995) (decided under former § 13-80-105 as it existed prior to the 1986 repeal and reenactment of this article).

Applicability to minors. Subsection (3)(d)(I) applies only if the child is represented by a legal guardian at the time the alleged negligence occurs. Otherwise, the child may file suit at any time before age 18 or within two years after a legal guardian is appointed. This result is required to harmonize this section with the disability statutes, § 13-81-101, et

seq., and applies to both the two-year limitation period and the three-year period of repose set forth in subsection (1). Hane by and through Jabalera v. Tubman, 899 P.2d 332 (Colo. App. 1995).

There is no exception to the statute of limitations under this section for actions derivative of those brought by a person under disability. Bartlett v. Elgin, 973 P.2d 694 (Colo. App. 1998), aff'd, 994 P.2d 411 (Colo. 1999).

The language of this section is unambiguous, thus because defendant was not a "health care professional", the general limitations for tort actions under § § 13-80-101 and 13-80-102 applied. Colburn v. Kopit, 59 P.3d 295 (Colo. App. 2002).

COLORADO REVISED STATUTES

[< Previous](#)

[Next >](#)



[About
LexisNexis®](#)

[Privacy
Policy](#)

[Cookie
Policy](#)

[Terms &
Conditions](#)

[Sign
Out](#)

[Copyright
© 2020
LexisNexis.](#)