ADVANCE SHEET HEADNOTE
September 8, 2025

2025 CO 49

No. 23SC871, *Bianco v. Rudnicki*—Civil Appeals—Health Care Availability Act—Good Cause Exception to Liability Limitations—Interest on Damages Awards.

Colorado's Heath Care Availability Act (the "HCAA") generally imposes a $1 million limit on medical malpractice damages awards. § 13-64-302, C.R.S. (2024). But the HCAA also provides an exception: in cases where good cause is shown, courts may find that applying the cap would be unfair and award economic damages beyond the $1 million cap. The HCAA further provides that prefiling interest is deemed part of the damages awarded in the action. In this case, the supreme court holds that prefiling interest accruing on economic damages is part of the economic damages award and thus falls within the good cause exception to the HCAA's general $1 million cap.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2025 CO 49

Supreme Court Case No. 23SC871
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 22CA1246

Petitioner:

Peter Bianco, D.O.,

v.

Respondents:

Alexander Rudnicki; and Francis Rudnicki and Pamela Rudnicki, as parents, guardians, and next friends of Alexander Rudnicki.

Judgment Affirmed
en banc
September 8, 2025

Attorneys for Petitioner:
Womble Bond Dickinson LLP
Kendra N. Beckwith
Joseph Hykan
Denver, Colorado

Attorneys for Respondents:
Wahlberg, Woodruff, Nimmo & Sloane LLP
David S. Woodruff
Megan K. Matthews
Denver, Colorado

Attorneys for Amicus Curiae Coloradans Protecting Patient Access:
Davis Graham & Stubbs LLP

Theresa Wardon Benz
Kylie Ngu
Denver, Colorado

Attorneys for Amici Curiae Colorado Medical Society and American Medical Association:
Shook, Hardy & Bacon LLP
Daniel E. Rohner
Denver, Colorado

Attorneys for Amicus Curiae Colorado Trial Lawyers Association:
Henry Miniter, Esq., LLC
Henry Miniter
Parker, Colorado

5280 Appellate Group, a division of
The Paul Wilkinson Law Firm, LLC
Nelson Boyle
Denver, Colorado

JUSTICE BOATRIGHT delivered the Opinion of the Court, in which **CHIEF JUSTICE MÁRQUEZ**, **JUSTICE HOOD**, **JUSTICE GABRIEL**, **JUSTICE HART**, **JUSTICE SAMOUR**, and **JUSTICE BERKENKOTTER** joined.

JUSTICE BOATRIGHT delivered the Opinion of the Court.

¶1 Due to a negligent delivery performed by petitioner Dr. Peter Bianco, respondent Alexander Rudnicki was born with brain damage resulting in significant physical and intellectual disabilities. Nine years later, Rudnicki's parents, Francis and Pamela Rudnicki, sued on his behalf. After a jury found Bianco liable for $4 million in damages, the trial court found good cause to exceed the Health Care Availability Act's ("HCAA") generally applicable $1 million damages cap. *See* § 13-64-302(1)(b), C.R.S. (2024). The court later awarded Rudnicki an additional $319,120 in prefiling interest that had accrued on the economic damages portion of the jury's award. Bianco appealed this prefiling interest award, arguing that it was barred by the HCAA's $1 million cap despite the trial court's good cause finding. A division of the court of appeals disagreed and affirmed the prefiling interest award. *Rudnicki v. Bianco*, 2023 COA 103, ¶ 53, 542 P.3d 1198, 1209 ("*Rudnicki II*"). Bianco petitioned, and we granted certiorari.[1]

¶2 We now hold that prefiling interest accruing on economic damages is part of the economic damages award and thus falls within the good cause exception to

[1] We granted certiorari to review the following issue:

> Whether, under the HCAA, prefiling, prejudgment interest on past and future economic damages may exceed the statutory damages limitation.

the HCAA's general $1 million cap. Accordingly, we affirm the judgment of the court of appeals.

I. Facts and Procedural History

¶3 During delivery, Bianco's negligent use of a vacuum extractor caused Rudnicki permanent brain damage. The injury required both immediate and ongoing medical treatment and made it unlikely that Rudnicki would be able to live independently in the future. Rudnicki's parents sued Bianco nine years later, both in their individual capacities and on Rudnicki's behalf. The court dismissed the parents' individual claims as time-barred, but their claim on Rudnicki's behalf moved forward.

¶4 After a jury found Bianco liable for $4 million in damages, the trial court found that there was good cause for exceeding section 13-64-302(1)(b)'s $1 million cap, concluding that applying the cap would be "manifestly unfair" to Rudnicki given his need for "constant supervision" and "considerable assistance with performing the basic tasks of living." But the court reduced the jury award by $391,000, finding that Rudnicki couldn't recover his pre-majority medical expenses under then-existing precedent. Rudnicki appealed that decision, and we reversed and remanded the case for further proceedings. *See Rudnicki v. Bianco*, 2021 CO 80, ¶¶ 44, 49, 501 P.3d 776, 785–86 ("*Rudnicki I*") (overruling contrary court of appeals precedent).

¶5 On remand, the trial court reinstated the $391,000 in pre-majority medical expenses and ordered Bianco to pay prejudgment interest on that amount, including *prefiling* interest.[2] Specifically, the court awarded $319,120 in prefiling interest, which, combined with $647,223 in post-filing interest and $391,000 in reinstated pre-majority damages, resulted in a new judgment of roughly $1,357,000.[3] The court sustained its earlier finding of good cause and unfairness and awarded the entire amount in excess of the $1 million cap (which the original judgment had already exceeded), reasoning that the cap "d[id] not limit the proper inclusion of prejudgment interest." Bianco appealed, contending, as relevant here, that courts may only award prefiling interest on economic damages up to and until

[2] There are two categories of prejudgment interest: prefiling and post-filing. Each type of interest is calculated differently. Prefiling interest *accrues* 9% annually between the time the cause of action arises and the time of filing and, hence, is calculated only on the original principal; post-filing interest *compounds* 9% annually between the time of filing and the court's judgment and is, therefore, calculated on both the principal and the accumulated interest from previous periods. § 13-21-101(1), C.R.S. (2024); *see also* § 13-64-302(2).

[3] Bianco had already satisfied the original judgment.

the total judgment reaches $1 million, even when the good cause exception applies.[4]

¶6 On appeal, the division interpreted section 13-64-302 to define prefiling interest as an element of the category of damages awarded, either economic or noneconomic. *Rudnicki II*, ¶¶ 42–43, 542 P.3d at 1207. The division generally agreed with *Scholle v. Ehrichs*, 2022 COA 87M, ¶ 107, 519 P.3d 1093, 1112, *rev'd in part on other grounds*, 2024 CO 22, 546 P.3d 1170, which held that "prefiling, prejudgment interest is part of 'damages' capped under the HCAA, subject to being uncapped upon a showing of good cause and unfairness." *Rudnicki II*, ¶¶ 3, 40–41, 542 P.3d at 1201, 1206–07. In doing so, the *Rudnicki II* division disagreed with *Wallbank v. Rothenberg*, 74 P.3d 413, 420 (Colo. App. 2003), which held that even if the trial court found good cause to exceed the cap, prefiling interest "may not be awarded for that portion of the judgment that exceeds one million dollars, because prefiling interest is included in the total limit." *See Rudnicki II*, ¶¶ 47–48,

[4] Bianco does not contest that, absent the prefiling interest award, he would remain liable for roughly $360,000 in post-filing interest. But because the court awarded $319,120 in prefiling interest, which began compounding at the time of filing, Bianco instead owed $647,223 in post-filing interest. Thus, as we understand it, the total amount Bianco is contesting is approximately $606,000 ($319,120 in prefiling interest, plus roughly $287,000 in additional post-filing interest that compounded as a result of the prefiling interest award).

542 P.3d at 1208 (commenting, "How the *Wallbank* division reached its conclusion about prefiling, prejudgment interest is unclear to us.").

¶7 Accordingly, the division concluded that the prefiling interest on the $391,000 pre-majority medical expense award constituted past and future economic damages subject to both the cap and the good cause exception. *Id.* at ¶¶ 44, 53, 542 P.3d at 1207, 1209. Thus, because Bianco had not contested the trial court's finding of good cause and unfairness, the division upheld the court's award. *Id.* at ¶ 53, 542 P.3d at 1209. We granted Bianco's petition for certiorari.

II. Analysis

¶8 We begin by summarizing the relevant standard of review and principles of statutory interpretation. We then discuss the law governing limitations on tort damages under the HCAA. Next, we assess Bianco's contention that courts may only award prefiling interest on economic damages up to and until the total award reaches $1 million, even upon a court's finding of good cause. Following our analysis of the statute's plain language, we hold that prefiling interest accruing on economic damages is part of the economic damages award and thus falls within the good cause exception to the HCAA's general $1 million cap.

A. Standard of Review and Principles of Statutory Interpretation

¶9 This case turns on our interpretation of the HCAA. We review questions of statutory interpretation de novo. *Nieto v. Clark's Mkt., Inc.*, 2021 CO 48, ¶ 12,

488 P.3d 1140, 1143. In doing so, we seek to effectuate the legislature's intent by giving "consistent, harmonious, and sensible effect" to the statutory scheme, interpreting words and phrases based on their plain and ordinary meanings. *Id.* (quoting *Bill Barrett Corp. v. Lembke*, 2020 CO 73, ¶ 14, 474 P.3d 46, 49). When the plain language of a statute is unambiguous, we apply it as written. *Id.*

B. The HCAA's Liability Limitations and Good Cause Exception

¶10 The HCAA generally limits healthcare providers' tort liability to $1 million in an effort to contain the costs of medical malpractice insurance and thereby the growing costs of healthcare more generally. § 13-64-102, C.R.S. (2024); § 13-64-302. Section 13-64-302 of the HCAA details the Act's liability limitations.[5]

¶11 Subsection (1)(b) caps liability at $1 million, of which a maximum of $300,000 may compensate for noneconomic losses.[6] § 13-64-302(1)(b)–(c). However, the statute provides an exception: "[I]f, upon good cause shown," the court finds that applying the $1 million cap "would be unfair, the court may award

[5] The legislature amended the statute in 2024, increasing the liability caps and allowing ongoing adjustment for inflation beginning in 2025. Ch. 325, sec. 6, § 13-64-302, 2024 Colo. Sess. Laws 2170, 2176–78. The language relevant to our inquiry remains unchanged in the updated version. § 13-64-302, C.R.S. (2024) (effective Jan. 1, 2025). We reference and analyze the caps as they existed at the time of the events in this case.

[6] We refer to the $300,000 limit on noneconomic damages as a "hard cap" because courts may not exceed it, even upon a finding of good cause and unfairness. § 13-64-302(1)(b)–(c).

in excess of the limitation . . . additional past and future *economic damages only*." § 13-64-302(1)(b) (emphasis added).

¶12 Subsection (2) provides that prefiling interest is "deemed to be a part of the damages awarded in the action . . . and is included within each of the limitations on liability" established by subsection (1). § 13-64-302(2). The question here is whether prefiling interest on economic damages may fall within the good cause exception.

C. Prefiling Interest and the Good Cause Exception

¶13 Bianco contends that prefiling interest is not included within the good cause exception, and therefore courts may only award prefiling interest on economic damages up to and until the total award reaches $1 million, even upon a finding of good cause. In doing so, Bianco urges us to adopt the holding from *Wallbank*, in which a division of the court of appeals concluded that even if a court finds good cause and unfairness, "prefiling interest . . . may not be awarded for that portion of the judgment that exceeds one million dollars, because prefiling interest is included in the total limit." 74 P.3d at 420. While the *Wallbank* division did not elaborate on this conclusion, *see id.*, Bianco submits two plain language arguments in support.

¶14 First, Bianco points out that under subsection (2), prefiling interest is "part of the damages awarded . . . and is included within *each* of the limitations on

liability" established by subsection (1)(b). § 13-64-302(2) (emphasis added). Those "limitations on liability" are the $300,000 hard cap on noneconomic losses and the $1 million overall cap. § 13-64-302(1)(b)–(c). Bianco notes that while subsection (2) is explicit that prefiling interest falls "within each" of these limitations, it is silent as to whether prefiling interest is also "within" the good cause exception. *See* § 13-64-302(2). He insists that if the legislature intended for prefiling interest to fall within the exception, it would have said so.

¶15 Second, Bianco argues that section 13-64-302 creates three distinct categories of damages: past damages, future damages, and prefiling interest. Bianco appears to reach this understanding by combining select portions of subsections (1)(b) and (2). Subsection (1)(b) provides that "[t]he total amount recoverable for all damages . . . whether *past damages*, *future damages*, or a combination of both, shall not exceed one million dollars," while subsection (2) explains that prefiling interest "is deemed to be a part of the damages awarded in the action." § 13-64-302(1)(b), (2) (emphasis added). Bianco thus contends that prefiling interest is a separate category of damages, hence including it within the good cause exception would violate the legislature's directive that the exception applies to "past and future economic damages only." § 13-64-302(1)(b).

¶16 We find these arguments unavailing. While we recognize that subsection (1)(b) mentions both past and future damages, we see no meaningful

distinction between the two under the statute. To the contrary, the statute's use of "whether" ("whether past damages, future damages, or a combination of both") evinces the legislature's intent to treat both types of damages equally. *Id.* Indeed, section 13-64-302 treats noneconomic damages the same ($300,000 hard cap), regardless of whether those damages compensate for injuries that happened in the past or are likely to occur in the future. The same is true for economic damages ($1 million cap, subject to good cause exception, whether past or future). Hence, the operative distinction in subsection (1)(b) is between economic and noneconomic damages, not past and future damages.

¶17 Moreover, interpreting subsection (1)(b) as creating two categories of damages, economic and noneconomic, flows logically into subsection (2), which states that prefiling interest is "deemed to be a *part of* the damages *awarded in the action*." § 13-64-302(2) (emphases added). That is, subsection (2) dictates that where damages result from noneconomic injuries, the associated prefiling interest is part of the noneconomic damages award; if damages result from economic injuries, then the associated prefiling interest is a part of the economic damages award. Therefore, we conclude that prefiling interest is not a separate category of damages.

¶18 This interpretation also gives proper effect to subsection (2)'s subsequent language, which states that prefiling interest is "included within each of"

subsection (1)'s limitations on liability. *Id.* As discussed, those limits are the $300,000 hard cap on noneconomic damages and the $1 million general cap. § 13-64-302(1)(b)–(c). Thus, prefiling interest on noneconomic damages awards is included within the $300,000 hard cap, while prefiling interest on overall awards is included within the general $1 million cap.

¶19 We further conclude that the General Assembly included prefiling interest "within" the $1 million general cap with full knowledge that the cap is subject to the good cause exception for economic damages. § 13-64-302(2); *see Colo. Water Conservation Bd. v. City of Central*, 125 P.3d 424, 434 (Colo. 2005) (noting that "[w]hen the General Assembly chooses to legislate, it is presumed to be aware of its own enactments" (quoting *Anderson v. Longmont Toyota, Inc.*, 102 P.3d 323, 330 (Colo. 2004))). Hence, because the exception applies to "economic damages only," prefiling interest on economic damages may fall within subsection (1)(b)'s good cause exception. § 13-64-302(1)(b).

¶20 Accordingly, we hold that prefiling interest accruing on economic damages is part of the economic damages award and thus falls within the good cause exception to the HCAA's general $1 million cap.[7]

[7] To the extent *Wallbank* conflicts with our decision, we overrule it. 74 P.3d at 420.

III. Conclusion

¶21 For the foregoing reasons, we affirm the judgment of the court of appeals.