

subchapter P's prejudgment interest damages are subject to the statutory cap. We therefore modify the court of appeals' judgment,⁴ remanding this case to the trial court.

I

Katherine Moore died after undergoing surgery at Columbia Bellaire Medical Center ("Columbia") in 1996. Her husband, two daughters, and estate (collectively "the Moores") sued the hospital and Katherine's two treating physicians under the wrongful death and survival statutes. The jury found for the Moores, allocating causal negligence between Columbia and the physicians and finding the Moores' actual damages to be \$3 million. The trial court applied the Act's subchapter K damages cap to reduce Columbia's actual damages liability to \$1,305,691, but added another \$300,487.79 in subchapter P prejudgment interest to the capped amount. The two physicians settled after judgment. Although the trial judge's application of the damages cap gave rise to other disputes resolved by the court of appeals, the only issue before us is whether the trial court erred in excluding prejudgment interest from the damages cap.

The subchapter K damages cap, found at article 4590i, section 11.02(a) of the Revised Civil Statutes, provides:

In an action on a health care liability claim where final judgment is rendered against a physician or health care provider, the limit of civil liability for damages of the physician or health care provider shall be limited to an amount not to exceed \$500,000.⁵

⁴ 43 S.W.3d 553, 566.

⁵ TEX. REV. CIV. STAT. art. 4590i, § 11.02(a).

The cap is adjusted to account for inflation when applied,⁶ and neither party disputes that the cap was properly adjusted and applied to reach the \$1,305,691 awarded by the trial court here.

Subchapter K was a centerpiece of the original Medical Liability and Insurance Improvement Act passed in 1977 in order to "reduce excessive frequency and severity of health care liability claims."⁷ In 1995, the Legislature added subchapter P to the Act, providing for a particular "[c]omputation of [p]rejudgment [i]nterest" in health care liability claims.⁸ The relevant portion of this provision, section 16.02(b), dictates that in such claims "the judgment must include prejudgment interest on past damages found by the trier of fact, but shall not include prejudgment interest on future damages found by the trier of fact."⁹ Subchapter P explicitly states that its computation applies "[n]otwithstanding" the general prejudgment interest statute,¹⁰ but makes no mention of subchapter K's damages cap.

The Moores argue, and the court of appeals held,¹¹ that the Legislature's addition of subchapter P's prejudgment interest provisions to the Act evidenced an intent to exclude prejudgment interest from the damages cap prescribed by subchapter K, and that section 16.02(b)'s mandatory language must be

⁶ *See id.* § 11.04.

⁷ *Id.* § 1.02(b)(1).

⁸ *Id.* § 16.02 (section heading).

⁹ *Id.* § 16.02(b).

¹⁰ *Id.* § 16.01.

¹¹ 43 S.W.3d at 562.

given effect by adding prejudgment interest, when applicable, to the capped damages amount. We disagree.

II

We recently addressed a strikingly similar question in *Horizon/CMS Healthcare Corporation v. Auld*.¹² In *Auld* we were asked to reconcile the Act's damages cap with the former general prejudgment interest statute directing that "judgments in wrongful death, personal injury, or property damage cases must include prejudgment interest."¹³ Like section 16.02(b), this provision was mandatory; like subchapter P, the statute did not reference the Act's damages cap. But we held in *Auld* that prejudgment interest required by the general statute was subject to the Act's subchapter K damages cap.¹⁴

At the heart of our analysis was the recognition that prejudgment interest was a form of damages that the Legislature intended to include in the Act's cap.¹⁵ We emphasized that the Act was designed "to limit, not expand, a health-care provider's civil liability for damages,"¹⁶ and including prejudgment interest in the cap was consistent with the Legislature's expressed purposes of decreasing the cost of health care claims and ensuring the availability of reasonably affordable insurance.¹⁷ We further noted that the statutory

¹² 34 S.W.3d at 897-901.

¹³ See Act of June 3, 1987, 70th Leg., 1st C.S., ch. 3, § 1, 1987 Tex. Gen. Laws 51, 51, *repealed by* Act of May 24, 1997, 75th Leg., R.S., ch. 1008, § 6(a), 1997 Tex. Gen. Laws 3091, 3602 (now codified at TEX. FIN. CODE § 304.102).

¹⁴ See *Auld*, 34 S.W.3d at 901.

¹⁵ See *id.* at 897-99.

¹⁶ *Id.* at 900 (quote omitted).

¹⁷ See *id.*; see also TEX. REV. CIV. STAT. art. 4590i, §§ 1.02(b)(2), (b)(4).

provisions could be harmonized to the extent that prejudgment interest would be recovered up to the cap amount.¹⁸ And because subchapter K's damages cap had a more specific application than the general prejudgment interest statute, including prejudgment interest in the cap was consistent with the statutory construction principle that the more specific statute controls over the more general one.¹⁹

The court of appeals distinguished *Auld*, relying on the dissenting opinion in that case,²⁰ and suggested that the addition of subchapter P to the Act indicated a legislative intent to exclude prejudgment interest damages from subchapter K's cap.²¹ We disagree. Although the court of appeals correctly noted that the Act's prejudgment interest provision is no more general than its damages cap, making that portion of *Auld*'s statutory construction analysis inapplicable,²² the heart of *Auld*'s analysis continues to apply, and compels the result we reach today.

First, the addition of subchapter P to the Act did nothing to change the nature of the prejudgment interest awarded. Prejudgment interest was, and continues to be, "compensation allowed by law as additional damages for lost use of the money due as damages during the lapse of time between the accrual of the claim and the date of judgment."²³ These additional compensatory damages, we held in *Auld*, are

¹⁸ See *Auld*, 34 S.W.3d at 901.

¹⁹ See *id.* (citing *Lufkin v. City of Galveston*, 63 Tex. 437, 439 (1885)).

²⁰ See 43 S.W.3d at 561-62 (citing *Auld*, 34 S.W.3d at 908-09 (Hankinson, J., dissenting)).

²¹ See *id.*

²² See *id.* at 562.

²³ *Cavnar v. Quality Control Parking, Inc.*, 696 S.W.2d 549, 552 (Tex. 1985); see also *Johnson & Higgins, Inc. v. Kenneco Energy, Inc.*, 962 S.W.2d 507, 528 (Tex. 1998).

among the damages that the Legislature intended to include in a defendant's "limit of civil liability for damages."²⁴ Under *Auld* subchapter K capped, and continues to cap, damages of the kind subchapter P awards.

Second, *Auld*'s emphasis on the legislative intent to limit, not expand, a health-care provider's liability under the Act remains relevant. As its legislative history makes clear, subchapter P was designed primarily to foreclose a particular, previously available prejudgment interest application.²⁵ Under the general statute – and under *Auld*, subject to the cap – plaintiffs received prejudgment interest on costs that had not accrued before the date of judgment.²⁶ But under subchapter P, plaintiffs can no longer recover prejudgment interest on future damages awarded in health care liability claims.²⁷ The House Committee Report for the bill containing subchapter P described "[p]rejudgment interest on costs accruing after the date of judgement [sic]" as a background problem justifying the bill, which "reforms limits on health care liability claims."²⁸ Thus subchapter P was enacted for the same purpose as subchapter K and the Act itself – to limit, not expand, a health-care provider's liability – and both provisions should be read in a manner that will advance this overarching goal. In *Auld* we held that capping prejudgment interest awarded under

²⁴ See *Auld*, 34 S.W.3d at 897-901; TEX. REV. CIV. STAT. art. 4590i, § 11.02(a).

²⁵ See, e.g., HOUSE COMM. ON CIVIL PRACTICES, BILL ANALYSIS, Tex. H.B. 971, 74th Leg., R.S. (1995); SEN. COMM. ON ECONOMIC DEVELOPMENT, BILL ANALYSIS, Tex. H.B. 971, 74th Leg., R.S. (1995).

²⁶ See Act of June 3, 1987, 70th Leg., 1st C.S., ch. 3, § 1, 1987 Tex. Gen. Laws 51, 51, *repealed by* Act of May 24, 1997, 75th Leg., R.S., ch. 1008, § 6(a), 1997 Tex. Gen. Laws 3091, 3602 (now codified at TEX. FIN. CODE § 304.102).

²⁷ TEX. REV. CIV. STAT. art. 4590i, § 16.02(b).

²⁸ HOUSE COMM. ON CIVIL PRACTICES, BILL ANALYSIS, Tex. H.B. 971, 74th Leg., R.S. (1995).

the general statute advanced the purposes of the Act;²⁹ capping prejudgment interest awarded under subchapter P advances the purposes of subchapter P and the Act as a whole.

Third, as we explained in *Auld*, the damages cap is not irreconcilable with a statutory prejudgment interest requirement.³⁰ Here, subchapter P describes how prejudgment interest must be computed in a health care liability claim judgment;³¹ subchapter K dictates when that judgment, with its attendant computations, must be capped.³² We should not be surprised to find the subchapter K damages cap in some tension with the larger statutory and common-law compensatory structure, for it is designed to override otherwise applicable damages computation standards. But this does not make the cap irreconcilable with damages allocation requirements; subchapter K merely adds an implicit qualification to the otherwise applicable standards: they now apply subject to the cap.

III

Finally, we consider *Auld*'s precedential effect. Because this Court has already decided that the Legislature meant to include prejudgment interest awarded under the general statute in subchapter K's cap, the question before us today turns on whether the Legislature intended subchapter P to uncap this previously capped prejudgment interest. But the statutory provision itself allows no such inference, and its legislative history reveals that the predominating concern was to limit, not expand, the application of

²⁹ See *Auld*, 34 S.W.3d at 898-900.

³⁰ See *id.* at 901.

³¹ See TEX. REV. CIV. STAT. art. 4590i, §§ 16.01-16.02.

³² See *id.* §§ 11.01-11.05.

prejudgment interest.³³ Although the *Auld* dissent argued that prejudgment interest was not subject to subchapter K's damages cap, it also concluded that subchapter P's structure "suggests that the Legislature did not intend to uncap previously capped prejudgment interest."³⁴ Because nothing in subchapter P indicates that the Legislature intended to uncap damages that this Court has held capped under subchapter K, *Auld* must control, and subchapter P's prejudgment interest damages remain capped.

IV

In sum, prejudgment interest awarded under subchapter P remains a form of the compensatory damages capped by subchapter K, and capping prejudgment interest advances the Act's goals. Further, subchapter P does not exclude prejudgment interest from a cap designed to override otherwise applicable damages computations, and nothing in subchapter P indicates a legislative intent to uncap previously capped damages. For these reasons, we hold that prejudgment interest awarded under subchapter P of the Medical Liability and Insurance Improvement Act is subject to the Act's subchapter K damages cap. Subchapter P prejudgment interest on past damages excluded from the cap by section 11.02(b) is fully available, but prejudgment interest on damages subject to the cap may be awarded only up to subchapter K's cap amount. We therefore modify the court of appeals' judgment and remand this case to the trial court for further proceedings consistent with our opinion.

Opinion delivered: June 27, 2002

³³ See, e.g., HOUSE COMM. ON CIVIL PRACTICES, BILL ANALYSIS, Tex. H.B. 971, 74th Leg., R.S. (1995).

³⁴ See *Auld*, 34 S.W.3d at 908 (Hankinson, J., dissenting).

Craig T. Enoch
Justice