

1720 AGGRAVATION OR ACTIVATION OF LATENT DISEASE OR CONDITION

In answering subdivision ___ of question ___, you cannot award any damages for any (pre-existing disease, condition, or ailment) (predisposition to disease) except insofar as you are satisfied that the (disease, condition, or ailment) (predisposition to disease) has been (aggravated) (activated) by the injuries received in the accident on (date). If you find that the plaintiff had a (pre-existing disease or condition which was dormant) (predisposition to disease) before the accident but that such (disease or condition) (predisposition to disease) was (aggravated) (brought into activity) because of the injuries received in the accident, then you should include an amount which will fairly and reasonably compensate (plaintiff) for such damages (plaintiff) suffered as a result of such (aggravation) (activation) of the condition.

Any ailment or disability that the plaintiff may have had, or has, or may later have, which is not the natural result of the injuries received in this accident, is not to be considered by you in assessing damages. You cannot award damages for any condition which has resulted, or will result, from the natural progress of the pre-existing disease or ailment or from consequences which are attributable to causes other than the accident.

If the plaintiff was more susceptible to serious results from the injuries received in this accident by reason of a (pre-existing disease or condition) (predisposition to disease) and that the resulting damages have been increased because of this condition, this should not prevent you from awarding damages to the extent of any increase and to the extent such damages were actually sustained as a natural result of the accident.

COMMENT

This instruction was originally published in 1960. The instruction and comment were revised in 1983. The comment was reviewed without change in 1990. Editorial changes were made in 1992 to address gender references in the instruction. No substantive changes were made to the instruction.

Use either pre-existing or predisposition according to the facts.

Kablitz v. Hoelt, 25 Wis.2d 518, 523-25, 131 N.W.2d 346 (1964). Peters v. Zimmerman, 275 Wis. 164, 172, 81 N.W.2d 565, 569 (1957); Woodward v. City of Boscobel, 84 Wis. 226, 234-35, 54 N.W. 332, 334-35 (1893); McNamara v. Village of Clintonville, 62 Wis. 207, 213-14, 22 N.W. 472, 474-75 (1885); Stewart v. City of Ripon, 38 Wis. 584, 590-91 (1875); 23 Am. Jur. 2d Damages §§ 122 and 124 (1965).