

1820 INJURY TO SPOUSE: NURSING SERVICES: PAST AND FUTURE

Subdivision ___ of question ___ asks what sum of money will compensate (name) for personal nursing care and services rendered to (his wife) (her husband). If you find that (name) performed services in nursing and caring for (his wife) (her husband) and that the services were necessarily rendered because of (her) (his) injuries, you should name such sum as you feel will fairly and reasonably compensate (name) for the personal nursing care and services, not exceeding the amount for which (name) could have employed others to do the work. If you find that for any foreseeable time in the future (he) (she) will be performing such necessary services, you should also make reasonable allowance for the future services.

COMMENT

This instruction and comment were originally published in 1960. They 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.

This instruction is applicable to services provided by either spouse. A spouse's claim for nursing services to an injured spouse is derivative. The causal negligence of the injured spouse bars or limits the recovery of the claiming spouse pursuant to the provisions of the comparative negligence statute. White v. Lunder, 66 Wis.2d 563, 225 N.W.2d 442 (1975).

Redepenning v. Dore, 56 Wis.2d 129, 201 N.W.2d 580 (1972); Moritz v. Allied Mut. Fire Ins. Co., 27 Wis.2d 13, 133 N.W.2d 235 (1965); Verhelst Constr. Co. v. Galles, 204 Wis. 96, 102, 235 N.W. 556, 558 (1931). See also Comment, Wis JI-Civil 1815.

Loss of earning by the treating spouse is not a proper measure of the reasonable value of the nursing services provided to the injured spouse. Redepenning, supra at 137.