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ENGROSSED HOUSE BILL 1927

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State of Washington

58th Legislature

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By Representatives Lantz, Schual-Berke, Clibborn, Campbell, Moeller, Cody, Morrell, Rockefeller, Kirby, Lovick, Kenney, Linville, Veloria, Conway, Simpson, Sommers and Haigh

Read first time 02/17/2003. Referred to Committee on Judiciary.

1 AN ACT Relating to the mandatory mediation and mandatory  
2 arbitration of health care claims; and amending RCW 7.70.100.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 7.70.100 and 1993 c 492 s 419 are each amended to read  
5 as follows:

6 (1) No action based upon a health care provider's professional  
7 negligence may be commenced unless the defendant has been given at  
8 least ninety days' notice of the intention to commence the action. If  
9 the notice is served within ninety days of the expiration of the  
10 applicable statute of limitations, the time for the commencement of the  
11 action must be extended ninety days from the service of the notice.

12 (2) The provisions of subsection (1) of this section are not  
13 applicable with respect to any defendant whose name is unknown to the  
14 plaintiff at the time of filing the complaint and who is identified  
15 therein by a fictitious name.

16 (3) After the filing of the ninety-day presuit notice, and before  
17 a superior court trial, all causes of action, whether based in tort,  
18 contract, or otherwise, for damages arising from injury occurring as a

1 result of health care provided after July 1, 1993, shall be subject to  
2 mandatory mediation prior to trial.

3 ~~((+2))~~ (4) The supreme court shall by rule adopt procedures to  
4 implement mandatory mediation of actions under this chapter. The rules  
5 shall require mandatory mediation without exception and address, at a  
6 minimum:

7 (a) Procedures for the appointment of, and qualifications of,  
8 mediators. A mediator shall have experience or expertise related to  
9 actions arising from injury occurring as a result of health care, and  
10 be a member of the state bar association who has been admitted to the  
11 bar for a minimum of five years or who is a retired judge. The parties  
12 may stipulate to a nonlawyer mediator. The court may prescribe  
13 additional qualifications of mediators;

14 (b) Appropriate limits on the amount or manner of compensation of  
15 mediators;

16 (c) The number of days following the filing of a claim under this  
17 chapter within which a mediator must be selected;

18 (d) The method by which a mediator is selected. The rule shall  
19 provide for designation of a mediator by the superior court if the  
20 parties are unable to agree upon a mediator;

21 (e) The number of days following the selection of a mediator within  
22 which a mediation conference must be held;

23 (f) A means by which mediation of an action under this chapter may  
24 be waived by a mediator who has determined that the claim is not  
25 appropriate for mediation; and

26 (g) Any other matters deemed necessary by the court.

27 ~~((+3))~~ (5) Mediators shall not impose discovery schedules upon the  
28 parties.

29 (6) The supreme court shall by rule also adopt procedures for the  
30 parties to certify to the court the manner of mediation used by the  
31 parties to comply with this section.

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