
HOUSE BILL 2996

State of Washington 58th Legislature 2004 Regular Session

By Representatives McMahan, Newhouse, Carrell, Benson, Boldt, Schindler, Holmquist, Kristiansen, Roach, Cairnes, Woods and Condotta

Read first time 01/26/2004. Referred to Committee on Judiciary.

1 AN ACT Relating to civil liability reform; adding a new section to
2 chapter 4.24 RCW; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 4.24 RCW
5 to read as follows:

6 (1) A certificate of merit shall be filed by the claimant's
7 attorney as specified in subsection (2) of this section within ninety
8 days of filing or service, whichever occurs later, of any action
9 asserting a claim, cross-claim, counter-claim, or third party claim for
10 damages arising out of: The failure to comply with the standard of
11 care by a person licensed, registered, or certified under Title 18 RCW;
12 the negligence of a health care facility as defined in RCW 48.43.005;
13 or a product liability claim under chapter 7.72 RCW. The court may,
14 for good cause shown, extend the period of time within which filing of
15 the certificate is required. In no event shall the period of time for
16 filing the certificate of merit exceed one hundred twenty days from the
17 date of filing or service, whichever occurs later.

18 (2) The certificate filed by the claimant's attorney shall consist

1 of the declaration of a qualified expert. The declaration shall
2 include:

3 (a) The name, address, and credentials of claimant's expert;

4 (b) The expert's statement that the expert has reviewed the facts
5 of the case, is knowledgeable of the relevant issues involved, and who:

6 (i) Holds a license, certificate, or registration issued by this
7 state or another state in the same profession as that of the person
8 against whom the claim is filed, and who practices in the same
9 specialty or subspecialty as the person against whom the claim is
10 filed; or

11 (ii) Has expertise in those areas requiring expert testimony in a
12 product liability claim or in an action against a health care facility;

13 (c) The expert's statement of willingness and availability to
14 testify to admissible facts, standard of care, or opinions regarding
15 the case; and

16 (d) The expert's statement that on the basis of preliminary review
17 and consultation, that there is reasonable and meritorious cause for
18 the filing of the action.

19 (3) Where a certificate is required under this section, and where
20 there are claims against multiple persons or entities, separate
21 certificates must be filed for each party qualified under subsection
22 (1) of this section. As appropriate, the same expert may file multiple
23 declarations provided that each declaration meets the requirements of
24 subsection (2) of this section.

25 (4) Persons identified in subsection (1) of this section against
26 whom a claim has been asserted are not required to file an answer to
27 that claim until thirty days after filing the certificate required in
28 subsection (2) of this section.

29 (5) The provisions of this section are not applicable to a pro se
30 claimant until such a time as an attorney appears on the claimant's
31 behalf.

32 (6) A violation of this section is grounds for dismissal of the
33 action; and a court of competent jurisdiction may sanction the claimant
34 or the claimant's attorney for violating this section.

35 NEW SECTION. **Sec. 2.** Section 1 of this act applies to all actions
36 for damages filed on or after July 1, 2004.

1 NEW SECTION. **Sec. 3.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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