
HOUSE BILL 1860

State of Washington 59th Legislature 2005 Regular Session

By Representatives Lantz, Flannigan, Cody, Kirby, Morrell, Springer, Williams, Miloscia, Upthegrove, Linville, O'Brien, Wood and Kagi

Read first time 02/08/2005. Referred to Committee on Judiciary.

1 AN ACT Relating to expert witnesses in actions under chapter 7.70
2 RCW; and adding new sections to chapter 7.70 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 7.70 RCW
5 to read as follows:

6 In any action under this chapter, each side shall presumptively be
7 entitled to only two independent experts on an issue, except upon a
8 showing of good cause. Where there are multiple parties on a side and
9 the parties cannot agree as to which independent experts will be called
10 on an issue, the court, upon a showing of good cause, shall allow
11 additional experts on an issue to be called as the court deems
12 appropriate.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 7.70 RCW
14 to read as follows:

15 In an action under this chapter, all parties shall submit a
16 pretrial expert report pursuant to time frames provided in court rules.
17 The expert report must disclose the identity of all expert witnesses
18 and state the nature of the opinions the expert witnesses will present

1 as testimony at trial. Further depositions of these expert witnesses
2 is prohibited. The testimony that an expert witness may present at
3 trial is limited in nature to the opinions disclosed to the court as
4 part of the pretrial expert report. The legislature respectfully
5 requests that the supreme court adopt rules to implement the provisions
6 of this section.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 7.70 RCW
8 to read as follows:

9 (1) In an action against an individual health care provider under
10 this chapter for personal injury or wrongful death in which the injury
11 is alleged to have been caused by an act or omission that violates the
12 accepted standard of care, the plaintiff must file a certificate of
13 merit at the time of commencing the action. If the action is commenced
14 within forty-five days of the expiration of the applicable statute of
15 limitations, the plaintiff must file the certificate of merit within
16 forty-five days of commencing the action.

17 (2) The certificate of merit must be executed by a health care
18 provider who meets the qualifications of an expert under this chapter.
19 If there is more than one defendant in the action, the person
20 commencing the action must file a certificate of merit for each
21 defendant.

22 (3) The certificate of merit must contain a statement that the
23 person executing the certificate of merit believes, based on the
24 information known at the time of executing the certificate of merit,
25 that there is a reasonable probability that the defendant's conduct did
26 not follow the accepted standard of care required to be exercised by
27 the defendant.

28 (4) Upon motion of the plaintiff, the court may grant an additional
29 period of time to file the certificate of merit, not to exceed ninety
30 days, if the court finds there is good cause for the extension.

31 (5)(a) Failure to file a certificate of merit that complies with
32 the requirements of this section is grounds for dismissal of the case.

33 (b) If a case is dismissed for failure to file a certificate of
34 merit that complies with the requirements of this section, the filing
35 of the claim against the health care provider shall not be used against
36 the health care provider in professional liability insurance rate

1 setting, personal credit history, or professional licensing and
2 credentialing.

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