

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2308

62nd Legislature
2012 Regular Session

Passed by the House March 5, 2012
Yeas 98 Nays 0

Speaker of the House of Representatives

Passed by the Senate March 2, 2012
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2308** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 2308

AS AMENDED BY THE SENATE

Passed Legislature - 2012 Regular Session

State of Washington

62nd Legislature

2012 Regular Session

By Representatives Rodne and Pedersen

Read first time 01/11/12. Referred to Committee on Judiciary.

1 AN ACT Relating to awarding of costs, including attorneys' fees, in
2 actions challenging actions taken by professional peer review bodies;
3 amending RCW 7.71.030; and adding a new section to chapter 7.71 RCW.

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

5 **Sec. 1.** RCW 7.71.030 and 1987 c 269 s 3 are each amended to read
6 as follows:

7 (1) This section shall provide the exclusive remedy for any action
8 taken by a professional peer review body of health care providers as
9 defined in RCW 7.70.020, that is found to be based on matters not
10 related to the competence or professional conduct of a health care
11 provider.

12 (2) Actions shall be limited to appropriate injunctive relief, and
13 damages shall be allowed only for lost earnings directly attributable
14 to the action taken by the professional peer review body, incurred
15 between the date of such action and the date the action is functionally
16 reversed by the professional peer review body.

17 (3) Reasonable attorneys' fees and costs (~~(as approved by the~~
18 ~~court))~~ shall be awarded (~~(to the prevailing party, if any, as~~
19 ~~determined))~~ if approved by the court under section 2 of this act.

1 (4) The statute of limitations for actions under this section shall
2 be one year from the date of the action of the professional peer review
3 body.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 7.71 RCW
5 to read as follows:

6 (1) Except as provided for in subsection (2) of this section, at
7 the conclusion of an action under RCW 7.71.030 the court shall award to
8 the substantially prevailing party the costs of the suit attributable
9 to any claim or defense asserted in the action by the nonprevailing
10 party, including reasonable attorneys' fees, if the nonprevailing
11 party's claim, defense, or conduct was frivolous, unreasonable, without
12 foundation, or in bad faith.

13 (2) At the conclusion of an action under RCW 7.71.030 the court
14 shall award to the substantially prevailing defendant the cost of the
15 suit, including reasonable attorneys' fees, if the nonprevailing
16 plaintiff failed to first exhaust all administrative remedies available
17 before the professional peer review body.

18 (3) A party shall not be considered to have substantially prevailed
19 if the opposing party obtains an award for damages or permanent
20 injunctive relief under this chapter.

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