CERTIFICATION OF ENROLLMENT

HOUSE BILL 2308

Chapter 165, Laws of 2012

62nd Legislature
2012 Regular Session

PROFESSIONAL PEER REVIEW BODIES--ATTORNEYS' FEES AND COSTS

EFFECTIVE DATE: 06/07/12

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

FRANK CHOPP
Speaker of the House of Representatives

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

BRAD OWEN
President of the Senate

Approved March 29, 2012, 6:28 p.m.

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.

BARBARA BAKER
Chief Clerk

FILED
March 29, 2012

CHRISTINE GREGOIRE
Governor of the State of Washington

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

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

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

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

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

    (3) Reasonable attorneys' fees and costs (as approved by the court) shall be awarded (to the prevailing party, if any, as determined) if approved by the court under section 2 of this act.
The statute of limitations for actions under this section shall be one year from the date of the action of the professional peer review body.

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

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

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

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

Passed by the House March 5, 2012.
Passed by the Senate March 2, 2012.
Approved by the Governor March 29, 2012.
Filed in Office of Secretary of State March 29, 2012.