

HB 2308 - S COMM AMD  
By Committee on Judiciary

ADOPTED 03/02/2012

1 Strike everything after the enacting clause and insert the  
2 following:

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

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

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

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

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

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

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

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

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

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9 On page 1, line 2 of the title, after "bodies;" strike the  
10 remainder of the title and insert "amending RCW 7.71.030; and adding a  
11 new section to chapter 7.71 RCW."

EFFECT: Clarifies that the attorney fees provisions in the bill  
only apply to the peer review process.

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