
HOUSE BILL 2868

State of Washington

52nd Legislature

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By Representatives Schmidt, Appelwick, Bowman, Padden, Wilson, Tate, Vance, P. Johnson, Brumsickle, Lisk, Mitchell, Nealey, Chandler, Casada, Morton, Horn, May, Ferguson, Prince, Miller, Beck, Wynne, Ballard, Winsley, D. Sommers, Broback, Paris, Brough, Carlson, Forner, Wood, Moyer, Hochstatter and Zellinsky

Read first time 01/29/92. Referred to Committee on Judiciary.

1 AN ACT Relating to the creation of an affirmative defense in an
2 action for medical malpractice; adding a new section to chapter 7.70
3 RCW; and adding new sections to chapter 43.70 RCW.

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

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

7 No award shall be made in an action or arbitration for damages for
8 injury occurring as the result of health care that is provided after
9 July 1, 1993, when a defendant in an action pleads and establishes that
10 the defendant's treatment and action were within the accepted practice
11 parameters, created under section 2 of this act, for the presenting
12 symptoms.

1 When no accepted practice parameter exists, the plaintiff in an
2 action for damages for injury occurring as the result of health care
3 shall meet the requirements of RCW 7.70.030.

4 The plaintiff in an action for damages for injury occurring as the
5 result of health care shall not substitute an accepted practice
6 parameter for the requirements in RCW 7.70.030 when the defendant in
7 the action does not plead that the treatment and action were within the
8 accepted practice parameters.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.70 RCW
10 to read as follows:

11 Beginning July 1, 1993, the secretary of the department of health
12 shall institute a program to define and determine acceptable health
13 care practice parameters for the state. Practice parameters are
14 guidelines suggested by the various national medical specialty
15 associations. The department of health's practice parameters program
16 shall operate in substantially the following manner:

17 (1) The Washington state medical association may file, with the
18 secretary of the department of health, Washington practice parameters
19 based on practice parameters suggested by each national medical
20 specialty association.

21 (2) Within one year of filing by the Washington state medical
22 association, the department of health may adopt the practice
23 parameters.

24 (a) The department shall only adopt those practice parameters
25 submitted, and shall not create its own practice parameters.

26 (b) Once adopted, a practice parameter is in effect for a term of
27 eighteen months. After eighteen months, the Washington state medical
28 association must request either an amendment to or renewal of the
29 practice parameters. There is a limit of two renewals for a practice

1 parameter. Each renewal shall make the practice parameter effective
2 for another eighteen months. When a practice parameter reaches the end
3 of its second renewal term limit, the practice parameter must be
4 amended, or it is no longer an effective practice parameter.

5 (3) The department has no obligation to seek out or encourage the
6 submission of practice parameters.

7 (4) The department shall adopt rules necessary to carry out the
8 provisions of this section.

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.70 RCW
10 to read as follows:

11 The department of health shall operate the practice parameter
12 program until July 1, 1995. At that time, the secretary shall make
13 recommendations to the legislature as to the continuance,
14 discontinuance, or modification of the program.