
SUBSTITUTE HOUSE BILL 1860

State of Washington 59th Legislature 2005 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Lantz, Flannigan, Cody, Kirby, Morrell, Springer, Williams, Miloscia, Upthegrove, Linville, O'Brien, Wood and Kagi)

READ FIRST TIME 03/02/05.

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 party shall presumptively be
7 entitled to only two independent experts on an issue, except upon a
8 showing of good cause. The court, upon a showing of good cause, shall
9 allow additional experts on an issue to be called as the court deems
10 appropriate.

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

13 In an action under this chapter, all parties shall submit a
14 pretrial expert report pursuant to time frames provided in court rules.
15 The expert report must disclose the identity of all expert witnesses
16 and state the nature of the opinions the expert witnesses will present
17 as testimony at trial. Further depositions of these expert witnesses
18 is prohibited. The testimony that an expert witness may present at

1 trial is limited in nature to the opinions disclosed to the court as
2 part of the pretrial expert report. The legislature respectfully
3 requests that the supreme court adopt rules to implement the provisions
4 of this section.

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

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

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

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

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

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

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

1 credentialing.

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