

HOUSE BILL NO. HB0305

Medical malpractice panel.

Sponsored by: Representative(s) Simpson, Boswell,
Childers, Osborn, Parady, Ross and Tipton

A BILL

for

1 AN ACT relating to administration of government; modifying
2 the Wyoming medical review act; providing an alternative
3 means to resolve medical malpractice claims; authorizing a
4 position; and providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 9-2-1501, 9-2-1502, 9-2-1503(a)(iii),
9 (v) and (vii), 9-2-1505(a) and (c), 9-2-1506(a) and by
10 creating a new subsection (d) and 9-2-1507(a), (c) and (d)
11 are amended to read:

12

13

ARTICLE 15

14

MEDICAL MALPRACTICE PANEL

15

16 **9-2-1501. Short title.**

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2 This act may be cited as the "Wyoming Medical ~~Review~~
3 Malpractice Panel Act".

4

5 **9-2-1502. Purpose of provisions.**

6

7 The purpose of this act is to provide an alternative means
8 to resolve medical malpractice claims to prevent where
9 possible the filing in court of actions against health care
10 providers ~~and their employees for professional liability in~~
11 ~~situations where the facts do not permit at least a~~
12 ~~reasonable inference of malpractice~~ and to make possible
13 the fair and equitable disposition of ~~such~~ medical
14 malpractice claims ~~against health care providers as that~~
15 ~~are, or reasonably may be, well founded~~ that have been
16 filed in court and are appropriate for alternative dispute
17 resolution.

18

19 **9-2-1503. Definitions.**

20

21 (a) As used in this act:

22

23 (iii) "Health care provider" means a ~~physician,~~
24 ~~dentist, health care facility or any person employed by a~~

1 ~~health care facility~~ who, in accordance with law or a
2 license granted by a state agency, provides health care;
3 including:

4 A) A physician, dentist, nurse, podiatrist,
5 pharmacist, chiropractor, optometrist or health care
6 facility; and

7
8 (B) An officer, employee or agent of a
9 person listed in subparagraph (A) of this paragraph acting
10 in the course and scope of employment.

11
12
13 (v) "Panel" means the medical ~~review~~ malpractice
14 panel provided for under this act;

15
16 (vii) "This act" means W.S. 9-2-1501 through
17 ~~9-2-1512~~ 9-2-1511.

18
19 **9-2-1505. Panel created; compensation; director of**
20 **panel; appointment and duties; rulemaking.**

21
22 (a) There is created the Wyoming medical ~~review~~
23 malpractice panel.

1 (c) Members of the panel shall receive compensation
2 while engaged in the business of the board of ~~forty dollars~~
3 ~~(\$40.00)~~ sixty dollars (\$60.00) per hour for any hour
4 during which a hearing or part of a hearing is held.
5 Compensation for travel and other services shall be as
6 provided in W.S. 9-3-102 and 9-3-103. Compensation to any
7 panel member under this subsection shall not exceed ~~three~~
8 ~~hundred twenty dollars (\$320.00)~~ four hundred eighty
9 dollars (\$480.00) per day. Unless otherwise agreed by the
10 parties or otherwise ordered by a court, each party shall
11 pay fifty percent (50%) of the fees of the panel, including
12 travel expenses and other expenses of the review. Any
13 amount paid under this subsection by a prevailing party
14 shall be considered as costs for purposes of Rule 54 of the
15 Wyoming Rules of Civil Procedure.

16
17 **9-2-1506. Claims to be reviewed by panel; tolling of**
18 **statute of limitation; immunity of panel and witnesses;**
19 **administration.**

20
21 (a) The panel shall review ~~all~~ malpractice claims
22 against health care providers filed with the panel ~~except~~
23 ~~those claims subject to a valid arbitration agreement~~
24 ~~allowed by law or upon which suit has been filed prior to~~

~~July 1, 1986. No complaint alleging malpractice shall be
filed in any court against a health care provider before a
claim is made to the panel and its decision is rendered.
The running of the applicable limitation period in a
malpractice action is tolled upon receipt by the director
of the application for review and does not begin again
until thirty (30) days after the panel's final decision is
served upon the claimant.~~ as follows:

(i) With the voluntary agreement of both the
complainant and the health care provider; or

(ii) At the request of either the complainant or
the health care provider, provided the court determines
pursuant to Rule 40, Wyoming Rules of Civil Procedure, that
alternative dispute resolution by the medical malpractice
panel is appropriate.

(d) Unless an action has been filed, the running of
the applicable limitation period in a malpractice action is
tolled upon receipt by the director of the application for
review and does not begin again until thirty (30) days
after the panel's final decision is served upon the
claimant.

1

2 **9-2-1507. Claim review procedure; contents of claim;**
3 **service of claim on provider; answer.**

4

5 (a) ~~Claimants shall~~ With agreement of the health care
6 provider against whom a claim is asserted, a claimant may
7 submit a case for the consideration of the panel prior to
8 filing a complaint in any court in this state by addressing
9 a claim, in writing, signed by the claimant or his
10 attorney, to the director of the panel. The claim shall
11 contain:

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13 (i) A statement in reasonable detail of the
14 elements of the health care provider's conduct which are
15 believed to constitute a malpractice claim, the dates the
16 conduct occurred, and the names and addresses of all
17 physicians, ~~dentists~~ and hospitals having contact with the
18 claimant relevant to the claim and all witnesses;

19

20 (ii) A statement, signed by the claimant,
21 authorizing the panel to obtain access to all medical, ~~7~~
22 ~~dental~~ and hospital records and information pertaining to
23 the claim and, for the purposes of its consideration of
24 this matter only, waiving any privilege as to the contents

1 of those records. Nothing in the statement may in any way
2 be construed as waiving that privilege for any other
3 purpose or in any other context, in or out of court~~;~~.

4
5 (iii) Written authorization of the health care
6 provider for submission of the claim for review under this
7 act.

8
9 (c) Upon receipt of a claim, the director shall cause
10 a true copy of the claim to be served on the health care
11 ~~providers~~provider against whom the claim has been filed.

12
13 (d) The health care provider shall answer the claim
14 within thirty (30) days after service and shall submit a
15 statement authorizing the panel to inspect all medical~~,~~
16 ~~dental and~~ hospital records and information pertaining to
17 the claim except those records which are privileged
18 pursuant to W.S. 35-17-105. The answer shall be filed with
19 the director who shall serve a copy on the claimant.

20
21 **Section 2.** W.S. 9-2-1503(a)(i) and 9-2-1512 are
22 repealed.

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