

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; providing an  
4 appropriation; authorizing a position; and providing for an  
5 effective date.

6

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

8

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

13

14

ARTICLE 15

15

MEDICAL MALPRACTICE PANEL

16

1           **9-2-1501. Short title.**

2

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

5

6           **9-2-1502. Purpose of provisions.**

7

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

19

20           **9-2-1503. Definitions.**

21

22           (a) As used in this act:

23

1 (iii) "Health care provider" means a physician,  
2 ~~dentist,~~ health care facility or any person employed by a  
3 health care facility who, in accordance with law or a  
4 license granted by a state agency, provides health care;

5

6 (v) "Panel" means the medical ~~review~~ malpractice  
7 panel provided for under this act;

8

9 (vii) "This act" means W.S. 9-2-1501 through  
10 ~~9-2-1512~~ 9-2-1511.

11

12 **9-2-1505. Panel created; compensation; director of**  
13 **panel; appointment and duties; rulemaking.**

14

15 (a) There is created the Wyoming medical ~~review~~  
16 malpractice panel.

17

18 (c) Members of the panel shall receive compensation  
19 while engaged in the business of the board of ~~forty dollars~~  
20 ~~(\$40.00)~~ sixty dollars (\$60.00) per hour for any hour  
21 during which a hearing or part of a hearing is held.  
22 Compensation for travel and other services shall be as  
23 provided in W.S. 9-3-102 and 9-3-103. Compensation to any  
24 panel member under this subsection shall not exceed ~~three~~

1 ~~hundred twenty dollars (\$320.00)~~ four hundred eighty  
2 dollars (\$480.00) per day. Unless otherwise agreed by the  
3 parties, each party shall pay fifty percent (50%) of the  
4 fees of the panel, including travel expenses and other  
5 expenses of the review.

6  
7 **9-2-1506. Claims to be reviewed by panel; tolling of**  
8 **statute of limitation; immunity of panel and witnesses;**  
9 **administration.**

10  
11 (a) The panel shall review ~~all~~ malpractice claims  
12 against health care providers filed with the panel ~~except~~  
13 ~~those claims subject to a valid arbitration agreement~~  
14 ~~allowed by law or upon which suit has been filed prior to~~  
15 ~~July 1, 1986. No complaint alleging malpractice shall be~~  
16 ~~filed in any court against a health care provider before a~~  
17 ~~claim is made to the panel and its decision is rendered.~~  
18 ~~The running of the applicable limitation period in a~~  
19 ~~malpractice action is tolled upon receipt by the director~~  
20 ~~of the application for review and does not begin again~~  
21 ~~until thirty (30) days after the panel's final decision is~~  
22 ~~served upon the claimant.~~ as follows:

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

3  
4           (ii) At the request of either the complainant or  
5 the health care provider, provided the court determines  
6 pursuant to Rule 40, Wyoming Rules of Civil Procedure, that  
7 alternative dispute resolution by the medical malpractice  
8 panel is appropriate.

9  
10          (d) Unless an action has been filed, the running of  
11 the applicable limitation period in a malpractice action is  
12 tolled upon receipt by the director of the application for  
13 review and does not begin again until thirty (30) days  
14 after the panel's final decision is served upon the  
15 claimant.

16  
17           **9-2-1507. Claim review procedure; contents of claim;**  
18 **service of claim on provider; answer.**

19  
20          (a) ~~Claimants shall~~ With agreement of the health care  
21 provider against whom a claim is asserted, a claimant may  
22 submit a case for the consideration of the panel prior to  
23 filing a complaint in any court in this state by addressing  
24 a claim, in writing, signed by the claimant or his

1 attorney, to the director of the panel. The claim shall  
2 contain:

3

4 (i) A statement in reasonable detail of the  
5 elements of the health care provider's conduct which are  
6 believed to constitute a malpractice claim, the dates the  
7 conduct occurred, and the names and addresses of all  
8 physicians, ~~dentists~~ and hospitals having contact with the  
9 claimant relevant to the claim and all witnesses;

10

11 (ii) A statement, signed by the claimant,  
12 authorizing the panel to obtain access to all medical,  
13 ~~dental~~ and hospital records and information pertaining to  
14 the claim and, for the purposes of its consideration of  
15 this matter only, waiving any privilege as to the contents  
16 of those records. Nothing in the statement may in any way  
17 be construed as waiving that privilege for any other  
18 purpose or in any other context, in or out of court;

19

20 (iii) Written authorization of the health care  
21 provider for submission of the claim for review under this  
22 act.

23

1 (c) Upon receipt of a claim, the director shall cause  
2 a true copy of the claim to be served on the health care  
3 ~~providers~~provider against whom the claim has been filed.  
4

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

13 **Section 2.** W.S. 9-2-1503(a)(i) and 9-2-1512 are  
14 repealed.  
15

16 **Section 3.** There is appropriated from the general  
17 fund to the office of the attorney general one hundred  
18 thousand dollars (\$100,000.00) for purposes of this act.  
19 The attorney general's office is authorized one (1)  
20 additional full-time position for purposes of this act.  
21

22 **Section 4.** This act is effective July 1, 2003.  
23

24 (END)