

HOUSE BILL NO. HB0078

Certificate of review.

Sponsored by: Representative(s) Ross and Simpson

A BILL

for

1 AN ACT relating to civil actions; requiring a certificate
2 of review before filing a civil action against a licensed
3 or certified professional as specified; providing for
4 applicability; and providing for an effective date.

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

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8 **Section 1.** W.S. 1-1-130 is created to read:

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10 **1-1-130. Actions against licensed or certified**
11 **professionals; certificate of review.**

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13 (a) In every action for damages or indemnity based
14 upon the alleged professional negligence of a licensed or
15 certified professional, the plaintiff or complainant shall
16 file with the court a certificate of review for each
17 licensed or certified professional named as a party, as

1 specified in subsection (d) of this section, within sixty
2 (60) days after the service of the complaint, counterclaim
3 or cross claim against the person unless the court
4 determines that a longer period is necessary for good cause
5 shown.

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7 (b) A certificate of review shall be filed with the
8 court with respect to every action described in subsection
9 (a) of this section against a company or firm that employed
10 a person specified in subsection (a) of this section at the
11 time of the alleged negligence, even if the person is not
12 named as a party in the action.

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14 (c) In the event of failure to file a certificate of
15 review in accordance with this section and if the licensed
16 or certified professional defending the claim believes that
17 an expert is necessary to prove the claim of professional
18 negligence, the defense may move the court for an order
19 requiring filing of the certificate. The court shall give
20 priority to deciding the motion filed under this
21 subsection, and in no event shall the court allow the case
22 to be set for trial without a decision on the motion.

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1 (d) A certificate of review shall be executed by the
2 plaintiff or complainant, or his attorney, if the plaintiff
3 or complainant is represented by an attorney at the time of
4 filing the certificate of review, declaring:

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6 (i) That the plaintiff or complainant, or his
7 attorney, has consulted a person who has expertise in the
8 area of the alleged negligent conduct; and

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10 (ii) That the professional who has been
11 consulted under this subsection has reviewed the known
12 facts, including the records, documents and other materials
13 which the professional has found to be relevant to the
14 allegations of negligent conduct and, based on the review
15 of those facts, has concluded that the filing of the claim,
16 counterclaim or cross claim has substantial justification,
17 is not substantially groundless or vexatious and is not
18 brought in bad faith.

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20 (e) The court, in its own discretion, may require the
21 identity of the licensed or certified professional who was
22 consulted pursuant to subsection (d) of this section to be
23 disclosed to the court and may verify the content of the
24 certificate of review. Unless the court orders otherwise,

1 the plaintiff or complainant, or his attorney shall not be
2 required to provide the identity of the consulting
3 professional to the opposing party or parties in the civil
4 action.

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6 (f) In an action alleging professional negligence of
7 a licensed or certified professional, the certificate of
8 review shall state that the professional consulted can
9 demonstrate by competent evidence that, as a result of
10 training, education, knowledge and experience, the
11 consultant is competent to express an opinion as to the
12 negligent conduct alleged.

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14 (g) The failure to file a certificate of review in
15 accordance with this section may result in the dismissal of
16 the complaint, counterclaim or cross claim. Nothing in
17 this section shall apply to a proceeding in a small claims
18 court.

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20 **Section 2.** This act shall apply to any action filed
21 under W.S. 1-1-130 on or after the effective date of this
22 act.

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1 **Section 3.** This act is effective July 1, 2004.

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(END)