

SENATE FILE NO. SF0098

Certificate of review.

Sponsored by: Senator(s) Ross and Representative(s)
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.

5

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

7

8 **Section 1.** W.S. 1-1-131 is created to read:

9

10 **1-1-131. Actions against licensed or certified**
11 **professionals; certificate of review.**

12

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

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

7

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

14

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

24

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:

5

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

9

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.

19

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.

5

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

13

14 (g) In an action alleging professional negligence of
15 a health care provider, the certificate of review shall
16 declare that the person consulted is a licensed health care
17 provider who can demonstrate by competent evidence that, as
18 a result of training, education, knowledge and experience
19 in the evaluation, diagnosis and treatment of the disease
20 or injury which is the subject matter of the action or
21 proceeding against the health care provider, he is
22 substantially familiar with applicable standards of care
23 and practice as they relate to the negligent conduct
24 alleged.

(h) The failure to file a certificate of review in accordance with this section, absent a showing of good cause, shall result in the dismissal of the complaint, counterclaim or cross claim. Nothing in this section shall apply to a proceeding in a small claims court.

(j) For purposes of this section, "health care provider" means a person who, in accordance with law or a license granted by a state agency, provides health care, including a physician, dentist, nurse, podiatrist, pharmacist, chiropractor, optometrist or health care facility.

14 **Section 2.** This act shall apply to any action filed
15 under W.S. 1-1-131 on or after the effective date of this
16 act.

18 **Section 3.** This act is effective July 1, 2005.

20 (END)