

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 277

(Delegates Zirkin and Bohanan)

Judiciary

Health Care Malpractice Actions - Attesting Experts - Qualifications

This bill provides that in addition to any other qualifications, a health care provider attesting to a certificate of qualified expert or testifying before a health claims arbitration panel or a court concerning compliance with or departure from standards of care: (1) must have active clinical experience in either the defendant's specialty or a related field of medicine within one year of the date of the alleged act or omission giving rise to the cause of action; and (2) if the defendant is board certified in a specialty, must be certified in the same or a related specialty. A health care provider testifying in relation to a proceeding before an arbitration panel or a court concerning compliance with or departure from standards of care must comply with the current requirement regarding time devoted to activities directly involving testimony in personal injury claims.

Fiscal Summary

State Effect: The bill would not materially affect governmental finances or operations.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Generally, in order to qualify to give expert testimony, an individual must, by reason of education or specialized experience, possess superior knowledge on a subject about which persons having no particular training are incapable of forming an accurate opinion or deducing correct conclusions.

A health care provider who attests in a certificate of a qualified expert or testifies before an arbitration panel or court concerning a defendant's compliance with or departure from standards of care must: (1) have clinical experience, provided consultation relating to clinical practice, or taught medicine in the defendant's specialty or related field or in the field of health care in which the defendant provided care or treatment within five years of the incident; and (2) be board certified in the same specialty if the defendant is board certified in a specialty, unless the defendant was providing care or treatment to the plaintiff unrelated to the area in which the defendant is board certified or the health care provider taught medicine in the same or similar field.

A health care provider who attests in a certificate of a qualified expert or testifies before an arbitration panel or a court concerning compliance with or departure from standards of care may not devote more than 20% of the provider's professional activities to activities that directly involve testimony in personal injury claims.

Additional Information

Prior Introductions: HB 1 and SB 1 of the 2004 Special Session, which both failed, contained a provision similar to this bill.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Health and Mental Hygiene, Maryland Insurance Administration, Office of the Attorney General, Department of Legislative Services

Fiscal Note History: First Reader - March 10, 2005
mam/jr

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