

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 476 Session of
2003

INTRODUCED BY GEORGE, CAWLEY, HALUSKA, KIRKLAND, LaGROTTA,
LAUGHLIN, PISTELLA, SOLOBAY, WALKO AND WASHINGTON,
FEBRUARY 25, 2003

REFERRED TO COMMITTEE ON INSURANCE, FEBRUARY 25, 2003

AN ACT

1 Amending the act of March 20, 2002 (P.L.154, No.13), entitled
2 "An act reforming the law on medical professional liability;
3 providing for patient safety and reporting; establishing the
4 Patient Safety Authority and the Patient Safety Trust Fund;
5 abrogating regulations; providing for medical professional
6 liability informed consent, damages, expert qualifications,
7 limitations of actions and medical records; establishing the
8 Interbranch Commission on Venue; providing for medical
9 professional liability insurance; establishing the Medical
10 Care Availability and Reduction of Error Fund; providing for
11 medical professional liability claims; establishing the Joint
12 Underwriting Association; regulating medical professional
13 liability insurance; providing for medical licensure
14 regulation; providing for administration; imposing penalties;
15 and making repeals," providing for pre-trial screening of
16 medical professional malpractice actions, and imposing duties
17 on the Insurance Department.

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 Section 1. The act of March 20, 2002 (P.L.154, No.13), known
21 as the Medical Care Availability and Reduction of Error (Mcare)
22 Act, is amended by adding a section to read:

23 Section 517. Preadjudication screening panels.

24 (a) Establishment of panels.--The department shall establish
25 three-person panels to conduct preadjudication screening of

medical professional liability actions. Each panel shall be composed of a retired judge, an attorney and a physician. Panels shall be permanent in nature and panelists shall be full-time employees of the department. Each panel shall be assigned exclusively to one of the territories utilized by the department in setting rates for medical professional liability insurance. The department shall determine the number of panels to be established in each territory.

(b) Mandatory screening.--The plaintiff, claimant or other moving party, including a defendant or additional defendant making a claim against another defendant or against an additional defendant, shall submit to the department within 30 days after filing a medical professional liability action, claim, counterclaim or cross-claim with a court, arbitration panel or other adjudicative body, in a format to be determined by the department, a synopsis of the action or claim made along with such supporting documentation as the department allows. The plaintiff, claimant or other moving party shall also submit to the department the names and addresses of each defendant, additional defendant, respondent and other nonmoving party.

(c) No participation by non-moving parties.--Except as provided in subsection (e), nonmoving parties shall not be permitted to respond to a submission made pursuant to subsection (b) or to otherwise participate in the screening process relating to that submission.

(d) Determination by panel.--Upon receipt of a submission pursuant to subsection (b), the department shall immediately assign it to an appropriate panel which, within 120 days of the submission, shall issue a written determination as to whether the action or claim is frivolous or nonfrivolous. No written

1 explanation or other commentary concerning the basis of the
2 determination of the merits of the action or claim shall
3 accompany or be part of the determination. A copy of the
4 determination shall be delivered to the plaintiff, claimant or
5 other moving party and to each defendant, additional defendant,
6 respondent or other nonmoving party.

7 (e) Conflict of interest.--No panel member may participate
8 in the determination of a case as to which a direct conflict of
9 interest exists. Except when attempting to establish the
10 existence of a direct conflict of interest, no party may
11 challenge the choice of panel made by the department.

12 (f) Admissibility of determination.--The determination of a
13 panel pursuant to subsection (d) shall be admissible in evidence
14 at trial, during arbitration or in connection with any other
15 proceeding during which the action or claim is being
16 adjudicated.

17 (g) Regulations.--The department shall promulgate such
18 regulations as it deems necessary to implement this section.

19 Section 2. This act shall not apply to medical professional
20 liability actions and claims filed before the effective date of
21 this act.

22 Section 3. This act shall take effect immediately.