

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1419 Session of 2011

INTRODUCED BY CUTLER, AUMENT, BOBACK, BOYD, CAUSER, CREIGHTON, DENLINGER, EVERETT, FLECK, GABLER, GEIST, GINGRICH, GRELL, GROVE, HESS, HICKERNELL, KAUFFMAN, KNOWLES, MAJOR, METCALFE, MILLARD, MILLER, MILNE, MURT, MUSTIO, OBERLANDER, O'NEILL, PICKETT, QUINN, REICHLEY, ROCK, SAYLOR, SCHRODER, SIMMONS, SONNEY, STERN AND VULAKOVICH, APRIL 28, 2011

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 28, 2011

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
 2 Pennsylvania Consolidated Statutes, providing for  
 3 certificates of merit in professional liability actions.

4 The General Assembly of the Commonwealth of Pennsylvania  
 5 hereby enacts as follows:

6 Section 1. Title 42 of the Pennsylvania Consolidated  
 7 Statutes is amended by adding a section to read:

8 § 7104. Certificate of merit.

9 (a) General rule.--No cause of action asserting a  
 10 professional liability claim may be filed with the court unless  
 11 a certificate of merit is included as provided under subsection

12 (b).

13 (b) Certificate of merit.--

14 (1) In filing a professional liability action with the  
 15 court under subsection (a), the plaintiff shall include with  
 16 the complaint a certificate of merit containing a written and

1 signed statement from an appropriate licensed professional,  
2 identified by name and professional designation, that one of  
3 the following applies:

4 (i) Based on the facts and circumstances contained  
5 in the complaint and for the reasons stated as applied to  
6 those facts, there exists a reasonable probability that  
7 the care, skill or knowledge exercised or exhibited in  
8 the treatment, practice or work that is the subject of  
9 each allegation in the complaint fell outside the  
10 acceptable professional standards and that the conduct  
11 was a cause in bringing about the harm.

12 (ii) The claim that the defendant deviated from an  
13 acceptable professional standard is based solely on  
14 allegations that the other licensed professionals for  
15 whom the defendant is responsible deviated from an  
16 acceptable professional standard.

17 (iii) Expert testimony of an appropriate licensed  
18 professional is unnecessary for prosecution of the claim.

19 (2) No person shall be competent to execute a  
20 certificate of merit or offer an expert opinion in a  
21 professional liability action unless that person does all of  
22 the following:

23 (i) Affirms that the person has read the complaint.

24 (ii) Possesses sufficient education, training,  
25 knowledge and experience to provide credible, competent  
26 testimony.

27 (iii) Provides a resume or curriculum vitae  
28 attesting to the person's credentials for inclusion with  
29 the complaint.

30 (3) A separate certificate of merit shall be filed as to

1 each licensed professional against whom a claim is asserted.

2 (4) (i) A defendant who files a counterclaim asserting  
3 a claim for professional liability shall file a  
4 certificate of merit as required under this section.

5 (ii) A defendant or an additional defendant who has  
6 joined a licensed professional as an additional defendant  
7 need not file a certificate of merit unless the joinder  
8 is based on acts of negligence that are unrelated to the  
9 acts of negligence that are the basis for the claim  
10 against the joining party.

11 (5) The court, upon good cause shown, may extend the  
12 time for filing a certificate of merit for a period of not  
13 more than 60 days.

14 Section 2. The addition of 42 Pa.C.S. § 7104 shall apply to  
15 a cause of action asserting a professional liability claim on or  
16 after the effective date of this section.

17 Section 3. This act shall take effect in 60 days.