

SENATE BILL NO. 479—COMMITTEE ON JUDICIARY

MARCH 18, 1999

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing actions for medical and dental malpractice.
(BDR 3-506)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to malpractice; requiring the division of insurance of the department of business and industry to give preference to and expedite claims filed by claimants who are critically ill; revising the provisions governing the admissibility at trial of certain findings of a screening panel; creating a preference for the setting of a trial date for an action involving medical or dental malpractice; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 41A of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 and 3 of this act.
- 3 **Sec. 2.** *In carrying out its duties pursuant to NRS 41A.033,*
4 *including, without limitation, selecting a screening panel and scheduling*
5 *a hearing, the division shall give preference to, and make a reasonable*
6 *effort to expedite, a claim filed by a claimant who suffers from an illness*
7 *or condition that raises a substantial medical doubt that the claimant will*
8 *survive until a determination is made by a screening panel.*
- 9 **Sec. 3.** *If an action for medical or dental malpractice is filed in*
10 *district court pursuant to NRS 41A.003 to 41A.069, inclusive, the court*
11 *shall give preference in setting a date for the trial of the action.*
- 12 **Sec. 4.** NRS 41A.016 is hereby amended to read as follows:
13 41A.016 1. No cause of action involving medical or dental
14 malpractice may be filed until the medical or dental malpractice case has
15 been submitted to an appropriate screening panel and a determination made
16 by such panel as provided in NRS 41A.003 to 41A.069, inclusive, and any

1 action filed without satisfying the requirements of those sections is subject
2 to dismissal without prejudice for failure to comply with this section.

3 2. ~~{The}~~ *Except as otherwise provided in subsection 3, the* written
4 findings of the screening panel are admissible in any action concerning that
5 complaint which is subsequently filed in district court. No other evidence
6 concerning the screening panel or its deliberations is admissible and no
7 member of the screening panel may be called to testify in any such action.

8 3. *If the screening panel finds that it is unable to reach a decision on*
9 *the issue of medical malpractice, the written findings of the screening*
10 *panel are not admissible in any action concerning that complaint which*
11 *is subsequently filed in district court.*

12 Sec. 5. NRS 41A.069 is hereby amended to read as follows:

13 41A.069 1. ~~{H}~~ *Unless the written findings of the screening panel*
14 *are not admissible pursuant to subsection 3 of NRS 41A.016, in* any
15 action for medical malpractice tried before a jury, the following instructions
16 must be given:

17 (a) If testimony of a medical expert was given at the review by the
18 screening panel:

19 During the course of this trial certain evidence was admitted
20 concerning the findings of a screening panel. The findings of the panel
21 were based upon a review of medical records and the testimony of a
22 medical expert based upon his review of those records. These findings
23 are to be given the same weight as any other evidence, but are not
24 conclusive on your determination of the case.

25 (b) If testimony of a medical expert was not given at the review by the
26 screening panel:

27 During the course of this trial certain evidence was admitted
28 concerning the findings of a screening panel. The findings of the panel
29 were based solely upon a review of the medical records. These
30 findings are to be given the same weight as any other evidence, but are
31 not conclusive on your determination of the case.

32 2. ~~{H}~~ *Unless the written findings of the screening panel are not*
33 *admissible pursuant to subsection 3 of NRS 41A.016, in* any action for
34 dental malpractice tried before a jury, the following instructions must be
35 given:

36 (a) If testimony of an expert witness was given at the review by the
37 screening panel:

38 During the course of this trial certain evidence was admitted
39 concerning the findings of a screening panel. The findings of the panel
40 were based upon a review of dental records and the testimony of an
41 expert witness based upon his review of those records. These findings
42 are to be given the same weight as any other evidence, but are not
43 conclusive on your determination of the case.

1 (b) If testimony of an expert witness was not given at the review by
2 the screening panel:

3 During the course of this trial certain evidence was admitted
4 concerning the findings of a screening panel. The findings of the panel
5 were based solely upon a review of the dental records. These findings
6 are to be given the same weight as any other evidence, but are not
7 conclusive on your determination of the case.

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