Senate Bill No. 479–Committee on Judiciary

CHAPTER.....

AN ACT relating to malpractice; providing for preferential scheduling of claims filed by claimants who are 70 years of age or older or who are critically ill; revising the provisions governing the admissibility at trial of certain findings of a screening panel; and providing other matters properly relating thereto.

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

Section 1. Chapter 41A of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a claimant is 70 years of age or older or suffers from an illness or condition which raises a substantial medical doubt that the claimant will survive until a determination is made by a screening panel, the claimant may file a written request with the division to give preference in scheduling the hearing of the claim filed by the claimant. The request must set forth facts showing that the claimant is 70 years of age or older or suffers from an illness or condition which raises a substantial medical doubt that the claimant will survive until a determination is made by a screening panel.

2. The division shall schedule the hearing of claims for which preference has been granted pursuant to subsection 1 based on the order in which the division received the requests for preference.

Sec. 2. NRS 41A.016 is hereby amended to read as follows:

41A.016 1. No cause of action involving medical or dental malpractice may be filed until the medical or dental malpractice case has been submitted to an appropriate screening panel and a determination made by such panel as provided in NRS 41A.003 to 41A.069, inclusive, and any action filed without satisfying the requirements of those sections is subject to dismissal without prejudice for failure to comply with this section.

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

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

Sec. 3. NRS 41A.069 is hereby amended to read as follows:

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

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

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

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

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

2. ~~[In]~~ ***Unless the written findings of the screening panel are not admissible pursuant to subsection 3 of NRS 41A.016, in*** any action for dental malpractice tried before a jury, the following instructions must be given:

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

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

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

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

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