

---

ASSEMBLY BILL NO. 300—ASSEMBLYMEN MABEY, GRIFFIN,  
HARDY, ANDONOV, BEERS, BROWN, CHRISTENSEN,  
GEDDES, GIBBONS, GOICOECHEA, GRADY, GUSTAVSON,  
HETTRICK, KNECHT, MARVEL, SHERER AND WEBER

MARCH 13, 2003

---

Referred to Committee on Judiciary

SUMMARY—Provides for creation of screening panels for medical  
and dental malpractice claims. (BDR 3-927)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

~

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

---

AN ACT relating to malpractice; providing in skeleton form for the creation of screening panels for medical and dental malpractice to hear claims of malpractice before such claims may be filed in court; requiring the Commissioner of Insurance to enter into agreements with physicians, dentists, attorneys and hospital administrators to serve as members on the screening panels; requiring the Commissioner of Insurance to employ an administrative law judge to serve as the presiding officer for each of the screening panels; requiring the administrative law judge to select the members of the screening panels and to oversee the claims filed with the screening panels; providing for the prospective expiration of the screening panels; 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  
2 thereto the provisions set forth as sections 2 to 12, inclusive, of this  
3 act.

4     **Sec. 2.** *As used in sections 2 to 12, inclusive, of this act,*  
5 *unless the context otherwise requires, the words and terms defined*  
6 *in sections 3, 4 and 5 of this act have the meaning ascribed to*  
7 *them in those sections.*

8     **Sec. 3.** *“Administrative law judge” means an administrative*  
9 *law judge employed by the Commissioner of Insurance pursuant*  
10 *to section 9 of this act.*

11     **Sec. 4.** *“Dentist” means a person licensed to practice*  
12 *dentistry or any special branch of dentistry pursuant to chapter*  
13 *631 of NRS.*

14     **Sec. 5.** *“Health care records” means any written reports,*  
15 *notes, orders, photographs, X rays or other written record received*  
16 *or produced by a provider of health care, or any person employed*  
17 *by him, which contains information relating to the medical*  
18 *history, examination, diagnosis or treatment of the patient.*

19     **Sec. 6. 1.** *A cause of action involving medical or dental*  
20 *malpractice may not be filed until the medical or dental*  
21 *malpractice case has been submitted to an appropriate screening*  
22 *panel and a determination is made by such a panel as provided by*  
23 *sections 7 to 12, inclusive, of this act. Any action filed without*  
24 *satisfying the requirements of sections 7 to 12, inclusive, of this*  
25 *act is subject to dismissal without prejudice for failure to comply*  
26 *with this section.*

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

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

37     **Sec. 7. 1.** *There are hereby created two tentative screening*  
38 *panels, one to be known as the northern panel, from which must*  
39 *be selected screening panels to sit in Reno to hear claims of*  
40 *medical or dental malpractice arising in the counties of Washoe,*  
41 *Storey, Douglas, Lyon, Churchill, Pershing, Humboldt, Lander,*  
42 *Elko, Eureka, Mineral, White Pine and Carson City, and one to be*  
43 *known as the southern panel, from which must be selected*  
44 *screening panels to sit in Las Vegas to hear claims of medical or*



1 *dental malpractice arising in the counties of Lincoln, Nye,*  
2 *Esmeralda and Clark.*

3 *2. The Commissioner of Insurance shall enter into*  
4 *agreements with physicians, dentists, and attorneys as necessary to*  
5 *serve as members of the tentative screening panels. The*  
6 *Commissioner may also enter into agreements with administrators*  
7 *of hospitals as necessary to serve as members of the screening*  
8 *panels when a claim names a hospital or a nurse employed by a*  
9 *hospital as a defendant. The Commissioner shall create a list of*  
10 *the physicians, dentists, attorneys and any administrators of*  
11 *hospitals who will serve as members of the tentative screening*  
12 *panels.*

13 **Sec. 8.** *The provisions of chapter 241 of NRS do not apply to*  
14 *meetings of screening panels.*

15 **Sec. 9.** *1. The Commissioner of Insurance shall employ at*  
16 *least one administrative law judge to serve as the presiding officer*  
17 *for each of the screening panels. The administrative law judge*  
18 *may not vote on any matter before the screening panels.*

19 *2. An administrative law judge employed by the*  
20 *Commissioner must possess the qualifications for eligibility to the*  
21 *office of district judge set forth in NRS 3.060.*

22 *3. Any decision of an administrative law judge is:*

23 *(a) Final and must not be disturbed, except upon a showing*  
24 *that the judge acted in an arbitrary and capricious manner; and*

25 *(b) Subject to judicial review by the district court of the county*  
26 *in which the plaintiff resides and, in those districts which have a*  
27 *chief judge, only by the chief judge.*

28 **Sec. 10.** *1. A claim of medical or dental malpractice is*  
29 *properly presented to a screening panel by filing a complaint with*  
30 *the administrative law judge for that panel and paying the*  
31 *appropriate fee in cash, by cashier's check or by certified check.*

32 *2. The Commissioner of Insurance shall by regulation*  
33 *establish the amount of the fee for filing a complaint and for filing*  
34 *a response which must not exceed \$500 for each such filing. When*  
35 *establishing the amount of the filing fees, the Commissioner shall*  
36 *set the fees in an amount sufficient to cover the anticipated costs*  
37 *of the screening panels and their administration.*

38 **Sec. 11.** *1. Not later than 30 days after the expiration of the*  
39 *time in which to answer the complaint of medical or dental*  
40 *malpractice, the administrative law judge shall hold a conference*  
41 *to resolve any issues as to challenges for cause. A party may*  
42 *challenge the appointment of any person on the tentative*  
43 *screening panel for cause on any of the grounds set forth in NRS*  
44 *16.050 for the challenge of jurors.*



\* A B 3 0 0 \*

1       2. The administrative law judge shall determine whether  
2 cause exists to excuse any member of the tentative screening panel  
3 and shall notify each party of a member who is excused.

4       3. Except as otherwise provided in this section, each party is  
5 entitled to not more than:

6       (a) Two peremptory challenges from the list of attorneys in  
7 cases involving medical or dental malpractice;

8       (b) Two peremptory challenges from the list of physicians in  
9 cases involving medical malpractice; and

10       (c) Two peremptory challenges from the list of dentists in cases  
11 involving dental malpractice.

12       4. In cases involving medical malpractice, the administrative  
13 law judge shall randomly select, from the list of members of the  
14 tentative screening panels created by the Commissioner of  
15 Insurance pursuant to section 7 of this act who have not been  
16 excused for cause or by a peremptory challenge, the names of  
17 three physicians, three attorneys and, if a hospital is also named in  
18 the complaint, one administrator of a hospital, to serve on the  
19 screening panel for review of a claim of medical malpractice. An  
20 administrator of a hospital who is selected to serve as a member of  
21 a screening panel serves in an advisory capacity and may not vote  
22 on any claim before the screening panel.

23       5. In cases involving dental malpractice, the administrative  
24 law judge shall randomly select, from the list of members of the  
25 tentative screening panel created by the Commissioner of  
26 Insurance pursuant to section 7 of this act who have not been  
27 excused for cause or by a peremptory challenge, the names of  
28 three dentists and three attorneys to serve on the screening panel  
29 for review of the claim.

30       6. The administrative law judge shall notify the parties and  
31 the members selected to serve on the screening panel immediately  
32 after making the selections. If any member so selected is unable to  
33 serve, the administrative law judge shall immediately and  
34 randomly select a replacement from the list. The administrative  
35 law judge shall not release or disclose to any person the names of  
36 members selected.

37       7. If, because of the exercise of challenges for cause or  
38 peremptory challenges or any other reason, no attorney, dentist,  
39 physician or administrator of a hospital with whom the  
40 Commissioner of Insurance has entered into an agreement  
41 pursuant to section 7 of this act remains available to serve on the  
42 screening panel, the administrative law judge shall immediately  
43 notify the Commissioner of Insurance who shall locate and enter  
44 into an agreement with an appropriate replacement.



1     **Sec. 12. 1.** *The administrative law judge may, by certified*  
2 *or registered mail, issue subpoenas as may be required by the*  
3 *screening panel, to compel the attendance of expert witnesses and,*  
4 *as may be required by the parties or the screening panel, to compel*  
5 *the production of books, papers, health care records, dental*  
6 *records, statements of policy and procedure, or other materials.*

7     **2.** *The administrative law judge shall keep the material so*  
8 *produced and make it available to the parties, upon request, for*  
9 *inspection or copying. If the material is reasonably capable of*  
10 *being copied, the administrative law judge shall provide a copy to*  
11 *the parties, upon request and receipt of a fee for the copying.*

12     **Sec. 13.** This act becomes effective on October 1, 2003, and  
13 expires by limitation on October 1, 2009.

