

Katy Hall proposes the following substitute bill:

Medical Malpractice Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Katy Hall

Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses malpractice actions against health care providers.

Highlighted Provisions:

This bill:

- defines terms;
- with respect to a medical malpractice action:
 - repeals requirements related to affidavits of merit;
 - prohibits prejudicing a defendant in an adjudication of a claimant's claims;
 - prohibits pursuing or collecting on a judgment against a health care provider's personal income or assets, with exceptions;
 - grants access to the court's Xchange database to the Division of Professional Licensing (division);
 - establishes data collection and reporting requirements for the division;
 - amends procedure pertaining to prelitigation review panels and panel reviews;
 - makes a prelitigation review panel's recommendations or findings advisory; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-3-410, as last amended by Laws of Utah 2010, Chapter 97

78B-3-416, as last amended by Laws of Utah 2024, Chapter 366

78B-3-418, as last amended by Laws of Utah 2022, Chapter 212

78B-3-423, as last amended by Laws of Utah 2022, Chapter 212

ENACTS:

78B-3-405.5, Utah Code Annotated 1953

78B-3-418.5, Utah Code Annotated 1953

78B-3-423.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78B-3-405.5** is enacted to read:

78B-3-405.5 . Economic damages -- Judgments against personal assets.

(1) This section applies to malpractice actions against health care providers, as defined in Section 78B-3-403.

(2) In a trial, the factfinder or court may not prejudice a defendant by knowing or considering evidence of the claimant's alleged losses for past medical expenses or the cost of medical equipment before:

(a) liability for the alleged losses has been established; and

(b) any claim for or award of noneconomic damages, if any, for the alleged losses has been fully adjudicated or entered.

(3)(a) Subject to Subsection (3)(b):

(i) the court may add economic damages to an award, if any, under Subsection (2)(b) based on amounts that the plaintiff or a third party insurer, whether public or private, actually paid for medical expenses related to the injury at issue; and

(ii) if a plaintiff did not have insurance to pay medical expenses related to the injury at issue, the court may award economic damages for amounts the plaintiff actually paid or owes for medical care resulting from the loss.

(b) The court may not calculate an award of economic damages based solely on amounts indicated on a medical bill or invoice.

(4) A plaintiff may not pursue, collect, or execute on a judgment against an individual health care provider's personal income or assets, unless the court finds that:

(a) the provider's conduct was willful and malicious or intentionally fraudulent; or

(b) the defendant provider failed to maintain an insurance policy with a policy limit of at least \$1,000,000.

(5) Prior to any award of damages to a plaintiff, a plaintiff may not make allegations that the court finds:

(a) are irrelevant to the adjudication of the claims at issue;

(b) are made primarily to coerce or induce settlement in an individual defendant

64 provider; and

65 (c) pertain to a provider's personal income or assets.

66 Section 2. Section **78B-3-410** is amended to read:

67 **78B-3-410 . Limitation of award of noneconomic damages and economic damages**
68 **in malpractice actions.**

69 (1) ~~[In a malpractice action against a health care provider, an injured plaintiff may recover~~
70 ~~noneconomic losses.]~~ Subject to Subsection (3), an injured plaintiff in a malpractice
71 action against a health care provider may only recover noneconomic losses to
72 compensate for pain, suffering, and inconvenience. The amount of damages awarded
73 for noneconomic loss may not exceed:

74 (a) for a cause of action arising before July 1, 2001, \$250,000;

75 (b) for a cause of action arising on or after July 1, 2001 and before July 1, 2002, the
76 limitation is adjusted for inflation to \$400,000;

77 (c) for a cause of action arising on or after July 1, 2002, and before May 15, 2010 the
78 \$400,000 limitation described in Subsection (1)(b) shall be adjusted for inflation as
79 provided in Subsection (2); and

80 (d) for a cause of action arising on or after May 15, 2010, \$450,000.

81 (2)(a) Beginning July 1, 2002 and each July 1 thereafter until July 1, 2009, the limit for
82 damages under Subsection (1)(c) shall be adjusted for inflation by the ~~[state treasurer]~~
83 Administrative Office of the Courts.

84 ~~[(b) By July 15 of each year until July 1, 2009, the state treasurer shall:]~~

85 ~~[(i) certify the inflation-adjusted limit calculated under this Subsection (2); and]~~

86 ~~[(ii) inform the Administrative Office of the Courts of the certified limit.]~~

87 ~~[(e)]~~ (b) The amount resulting from Subsection (2)(a) shall:

88 (i) be rounded to the nearest \$10,000; and

89 (ii) apply to a cause of action arising on or after the date the annual adjustment is
90 made.

91 (3) As used in this section, "inflation" means the seasonally adjusted consumer price index
92 for all urban consumers as published by the Bureau of Labor Statistics of the United
93 States Department of Labor.

94 (4) The limit under Subsection (1) does not apply to awards of punitive damages.

95 Section 3. Section **78B-3-416** is amended to read:

96 **78B-3-416 . Division to provide review panel -- Exemption -- Procedures --**
97 **Statute of limitations tolled -- Composition of panel -- Expenses -- Division authorized to**

98 **set license fees.**

99 (1)(a) The division shall provide a ~~[hearing panel in alleged medical liability cases~~
100 ~~against health care providers as defined in Section 78B-3-403,]~~ prelitigation review
101 panel to conduct a panel review in accordance with this part, in all malpractice
102 actions against a health care provider, except dentists or dental care providers.

103 (b)(i) The division shall establish procedures for ~~[prelitigation consideration of~~
104 ~~medical liability claims for damages arising out of the provision of or alleged~~
105 ~~failure to provide health care]~~ panel reviews.

106 (ii) The division may establish rules necessary to administer the process and
107 procedures related to ~~[prelitigation hearings]~~ a panel review and the conduct of [
108 ~~prelitigation hearings]~~ a member of a prelitigation review panel or participant in a
109 panel review in accordance with Sections 78B-3-416 through 78B-3-420.

110 (c) ~~[The proceedings are]~~ A panel review is informal, nonbinding, and [are-]not subject
111 to Title 63G, Chapter 4, Administrative Procedures Act, but [are] is compulsory as a
112 condition precedent to commencing litigation.

113 (d) ~~[Proceedings-]~~ A panel review that is conducted under authority of this section [are] is
114 confidential, privileged, and immune from civil process.

115 (e) The division may not provide more than one ~~[hearing panel]~~ review panel for each
116 ~~alleged [medical liability case against a health care provider]~~ malpractice action
117 against a health care provider.

118 (2)(a) The party initiating a ~~[medical liability action]~~ malpractice action against a health
119 care provider shall file a request for a prelitigation panel review with the division
120 within 60 days after the service of a statutory notice of intent to commence action
121 under Section 78B-3-412.

122 (b) The request shall include a copy of the notice of intent to commence action~~[-The~~
123 ~~request shall be mailed to]~~ and the claimant shall mail the request and notice of intent
124 to all health care providers named in the notice and request.

125 (3)(a) As used in this Subsection (3):

126 (i) "Court-appointed therapist" means a mental health therapist ordered by a court to
127 provide psychotherapeutic treatment to an individual, a couple, or a family in a
128 domestic case.

129 (ii) "Domestic case" means a proceeding under:

130 (A) ~~[Title 78B,]~~ Chapter 7, Protective Orders and Stalking Injunctions;

131 (B) ~~[Title 78B,]~~ Chapter 13, Utah Uniform Child Custody Jurisdiction and

- 132 Enforcement Act;
- 133 (C) ~~[Title 78B,]~~ Chapter 15, Utah Uniform Parentage Act;
- 134 (D) Title 81, Chapter 4, Dissolution of Marriage; or
- 135 (E) Title 81, Chapter 9, Custody, Parent-time, and Visitation.
- 136 (iii) "Mental health therapist" means the same as that term is defined in Section
- 137 58-60-102.
- 138 (b) If a court appoints a court-appointed therapist in a domestic case, a party to the
- 139 domestic case may not file a request for a prelitigation panel review for a malpractice
- 140 action against the court-appointed therapist during the pendency of the domestic case,
- 141 unless:
- 142 (i) the party has requested that the court release the court-appointed therapist from the
- 143 appointment; and
- 144 (ii) the court finds good cause to release the court-appointed therapist from the
- 145 appointment.
- 146 (c) If a party is prohibited from filing a request for a ~~[prelitigation]~~ panel review under
- 147 Subsection (3)(b), the applicable statute of limitations tolls until the earlier of:
- 148 (i) the court releasing the court-appointed therapist from the appointment as
- 149 described in Subsection (3)(b); or
- 150 (ii) the court entering a final order in the domestic case.
- 151 (4)(a) The filing of a request for a prelitigation panel review under this section tolls the
- 152 applicable statute of limitations until the later of:
- 153 (i) 60 days following the division's issuance of:
- 154 (A) an opinion by the ~~[prelitigation]~~ review panel; or
- 155 (B) a certificate of compliance under Section 78B-3-418; or
- 156 (ii) the expiration of the time for holding a ~~[hearing]~~ panel review under Subsection
- 157 (4)(b)(ii).
- 158 (b) The division shall:
- 159 (i) send any opinion issued by the panel to all parties by regular mail; and
- 160 (ii) complete a ~~[prelitigation-hearing]~~ panel review under this section within:
- 161 (A) 180 days after the filing of the request for prelitigation panel review; or
- 162 (B) any longer period as agreed upon in writing by all parties to the review.
- 163 ~~[(c) If the prelitigation hearing has not been completed within the time limits established~~
- 164 ~~in Subsection (4)(b)(ii), the claimant shall:]~~
- 165 ~~[(i) file an affidavit of merit under the provisions of Section 78B-3-423; or]~~

166 ~~[(ii) file an affidavit with the division within 180 days of the request for pre-litigation~~
167 ~~review, in accordance with Subsection (4)(d), alleging that the respondent has~~
168 ~~failed to reasonably cooperate in scheduling the hearing.]~~

169 (c) If a panel review does not occur within the time limits under Subsection (4)(b)(ii),
170 the claimant or respondent may, no later than 180 days after the day on which the
171 request for a panel review was filed under Subsection (2), file with the division an
172 affidavit alleging with supporting attachments, if any:

173 (i) that the claimant or respondent failed to reasonably cooperate in scheduling the
174 panel review; or

175 (ii) any other reason that the panel review did not occur within the time limits under
176 Subsection (4)(b)(ii).

177 (d) If the ~~[claimant]~~ claimant or [-] respondent files an affidavit under Subsection [
178 ~~(4)(e)(ii)]~~ (4)(c):

179 (i) ~~within 15 days of the filing of the affidavit[under Subsection (4)(e)(ii)], the~~
180 ~~division shall [determine whether either the respondent or the claimant failed to~~
181 ~~reasonably cooperate in the scheduling of a pre-litigation hearing; and] conclude,~~
182 based solely on the affidavit and any supporting attachments, whether the claimant
183 or respondent failed to reasonably cooperate in the scheduling of the panel review;
184 and

185 (ii)(A) ~~if the [determination is] division finds that the [respondent failed to~~
186 ~~reasonably cooperate in the scheduling of a hearing, and the -]claimant or~~
187 respondent ~~did not fail to reasonably cooperate, the division shall[-] issue a~~
188 certificate of compliance for the claimant in accordance with [Section
189 78B-3-418] Subsection 78B-3-418(3)(b), stating the division's determination
190 and the facts upon which the determination is based; or

191 (B) ~~if the division makes a determination other than the determination in~~
192 ~~Subsection (4)(d)(ii)(A), [the claimant shall file an affidavit of merit in~~
193 ~~accordance with Section 78B-3-423, within 30 days of the determination of the~~
194 ~~division under this Subsection (4)]~~ the division shall, subject to Subsection (4)(f),
195 issue a certificate of compliance for the claimant, in accordance with
196 Subsection 78B-3-418(3)(b), stating the division's determination and the facts
197 upon which the determination is based.

198 (e)(i) ~~The claimant and any respondent may agree by written stipulation [that no~~
199 useful purpose would be served by convening a prelitigation panel] to waive the

requirement to convene a panel review under this section.

(ii) When the stipulation is filed with the division, the division shall within 10 days after receipt issue a certificate of compliance under ~~[Section 78B-3-418]~~ Subsection 78B-3-418(3)(c), as it concerns the stipulating respondent, and stating that the claimant has ~~[complied with all conditions precedent to the commencement of litigation regarding the claim]~~ satisfied, by stipulation, the condition precedent under Subsection (1)(c) to commencing litigation.

(f) The division may not issue a certificate of compliance if the division finds under Subsection (4)(d)(ii)(B) that the claimant failed to reasonably cooperate in the scheduling of the panel review.

(5) The division shall provide for and appoint an appropriate panel ~~[or panels to hear]~~ to consider complaints of medical liability and damages, made by or on behalf of any patient who is an alleged victim of ~~[medical liability.]~~ malpractice. The panels are composed of:

(a) one member who is a resident lawyer currently licensed and in good standing to practice law in this state and who shall serve as chairman of the panel, who is appointed by the division from among qualified individuals who have registered with the division indicating a willingness to serve as panel members, and a willingness to comply with the rules of professional conduct governing lawyers in the state, and who has completed division training regarding conduct of ~~[panel hearings]~~ panel reviews;

(b)(i) one or more members who are licensed health care providers listed under Section 78B-3-403, who are practicing and knowledgeable in the same specialty as the proposed ~~[defendant]~~ respondent, and who are appointed by the division in accordance with Subsection (6); or

(ii) in claims against only a health care facility or the facility's employees, one member who is an individual currently serving in a health care facility administration position directly related to health care facility operations or conduct that includes responsibility for the area of practice that is the subject of the liability claim, and who is appointed by the division; and

(c) a lay panelist who is not a lawyer, doctor, hospital employee, or other health care provider, and who is a responsible citizen of the state, selected and appointed by the division from among individuals who have completed division training with respect to panel ~~[hearings]~~ reviews.

- (6)(a) Each person listed as a health care provider in Section 78B-3-403 and practicing under a license issued by the state, is obligated as a condition of holding that license to participate as a member of a ~~[medical liability prelitigation panel]~~ prelitigation review panel at reasonable times, places, and intervals, upon issuance, with advance notice given in a reasonable time frame, by the division of an Order to Participate as a Medical Liability Prelitigation Panel Member.
- (b) A licensee may be excused from appearance and participation as a panel member upon the division finding participation by the licensee will create an unreasonable burden or hardship upon the licensee.
- (c) A licensee ~~[whom]~~ who the division finds failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed \$5,000.
- (d) A licensee ~~[whom]~~ who the division finds intentionally or repeatedly failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed \$5,000, and is guilty of unprofessional conduct.
- (e) All fines collected under Subsections (6)(c) and (d) shall be deposited into the Physicians Education Fund created in Section 58-67a-1.
- (f) The director of the division may collect a fine that is not paid by:
- (i) referring the matter to a collection agency; or
 - (ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.
- (g) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a fine.
- (h) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a fine.
- (7) Each person selected as a panel member shall certify, under oath, that ~~[he]~~ the member has no bias or conflict of interest with respect to any matter under consideration.
- (8) A member of ~~[the prelitigation hearing]~~ a prelitigation review panel may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9)(a) In addition to the actual cost of administering the licensure of health care providers, the division may set license fees of health care providers within the limits established by law equal to their proportionate costs of administering prelitigation panels.

(b) The claimant bears none of the costs of administering the prelitigation panel except under Section 78B-3-420.

Section 4. Section **78B-3-418** is amended to read:

78B-3-418 . Opinion and recommendations of panel.

(1)(a) The prelitigation review panel shall issue an opinion and the division shall issue a certificate of compliance with the ~~[pre-litigation hearing]~~ prelitigation requirements of this part in accordance with this section.

(b) A certificate of compliance issued in accordance with this section is proof that ~~[the claimant has complied with all conditions precedent under this part prior to the commencement of litigation as required in Subsection 78B-3-412(1)]~~ the claimant has met all conditions precedent under this section to commencing litigation.

(2)(a) The panel shall render [its] an opinion in writing not later than 30 days after the [~~end of the proceedings~~] day on which the panel review concludes, and determine on the basis of the evidence whether:

(i) each claim against each health care provider has merit or has no merit; and

(ii) if a claim is ~~[meritorious, whether-]~~ deemed meritorious under Subsection

~~(2)(a)(i)~~, the conduct complained of resulted in harm to the claimant.

(b) There is no judicial or other review or appeal of the panel's ~~[decision or recommendations]~~ opinion under Subsection (2)(a).

(3) The division shall issue a certificate of compliance to the claimant, for each respondent named in the notice of intent to file a claim under this part, if:

(a) for a named respondent, the panel issues an opinion ~~[of merit]~~ under ~~[Subsections (2)(a)(i) and (ii)]~~ Subsection (2)(a);

~~[(b) for a named respondent, the claimant files an affidavit of merit in accordance with Section 78B-3-423 if the opinion under Subsection (1)(a) is non-meritorious under either Subsection (2)(a)(i) or (ii);]~~

~~[(e)]~~ (b) the claimant has complied with the provisions of Subsections 78B-3-416(4)(c)

and (d); or

~~[(d)]~~ (c) the parties submitted a stipulation under Subsection 78B-3-416(4)(e).

Section 5. Section **78B-3-418.5** is enacted to read:

78B-3-418.5 . Attorney fees.

(1) The court may award attorney fees and costs to a respondent provider if:

(a)(i) a prelitigation review panel renders an opinion under Subsection

78B-3-418(2)(a) that a claimant's claim or cause of action has no merit; or

(ii) the court finds that the claimant did not receive a certificate of compliance

because the plaintiff failed to reasonably cooperate in the scheduling of the

prelitigation panel review under 78B-3-416(4)(f);

(b) the claimant proceeds to litigate the malpractice action against a health care provider

without obtaining an affidavit of merit under Section 78B-3-423; and

(c) the court finds that the claimant did not substantially prevail.

(2) A claimant in a malpractice action against a health care provider, or the claimant's

attorney, is liable to any respondent for the reasonable attorney fees and costs incurred

by the respondent, or by the respondent's insurer, in connection with any filing,

submission, panel review, arbitration, or judicial proceeding under this part for which a

claimant files or submits an affidavit containing an allegation that the court or arbitrator

finds that the claimant knew, or should have known, to be baseless or false at the time

the affidavit was signed, filed, or submitted.

(3) A court, or an arbitrator under Section 78B-3-421, may award reasonable attorney fees

or costs under Subsection (1) only if the respondent files a motion for the attorney fees

or costs no later than 60 days after the day on which the court's or arbitrator's final

decision, judgment, or dismissal of all claims in the action is entered.

Section 6. Section **78B-3-423** is amended to read:

78B-3-423 . Affidavit of merit.

~~[(1)(a) For a cause of action that arises on or after July 1, 2010, before a claimant may~~

~~receive a certificate of compliance under Sections 78B-3-416 and 78B-3-418, a~~

~~claimant shall file an affidavit of merit under this section.]~~

~~[(b)]~~ (1)(a) [The claimant shall file an affidavit of merit] A claimant who elects to file an

affidavit of merit shall file the affidavit of merit:

(i) within 60 days after the day on which the pre-litigation panel issues an opinion, if

the claimant receives a finding from the pre-litigation panel in accordance with

Section 78B-3-418 of non-meritorious for either:

- 336 (A) the claim of breach of applicable standard of care; or
337 (B) that the breach of care was the proximate cause of injury;
338 (ii) within 60 days after the day on which the time limit in Subsection
339 78B-3-416(4)(b)(ii) expires, if a pre-litigation hearing is not held within the time
340 limits under Subsection 78B-3-416(4)(b)(ii); or
341 (iii) within 30 days after the day on which the division makes a determination under
342 Subsection 78B-3-416(4)(d)(ii)(B), if the division makes a determination under
343 Subsection 78B-3-416(4)(d)(ii)(B).

344 [(e)] (b) A claimant who is [required] elects to file an affidavit of merit under Subsection
345 (1)(a) shall:

- 346 (i) file the affidavit of merit with the division; and
347 (ii) serve each defendant with the affidavit of merit in accordance with Subsection
348 78B-3-412(3).

349 (2)(a) A claimant may proceed to litigate and pursue a judicial remedy regardless of
350 whether:

- 351 (i) the claimant has obtained or filed an affidavit of merit under this section;
352 (ii) a review panel deemed the claimant's claims to have merit; or
353 (iii) the claimant participated in a review panel.

354 [(2)] (3) The affidavit of merit shall:

- 355 (a) be executed by the claimant's attorney or the claimant if the claimant is proceeding
356 pro se, stating that the affiant has consulted with and reviewed the facts of the case
357 with a health care provider who has determined after a review of the medical record
358 and other relevant material involved in the particular action that there is a reasonable
359 and meritorious cause for the filing of a medical liability action; and
360 (b) include an affidavit signed by a health care provider who meets the requirements of
361 Subsection [(4)] (5):
362 (i) stating that in the health care provider's opinion, there are reasonable grounds to
363 believe that the applicable standard of care was breached;
364 (ii) stating that in the health care provider's opinion, the breach was a proximate
365 cause of the injury claimed in the notice of intent to commence action; and
366 (iii) stating the reasons for the health care provider's opinion.

367 [(3)] (4) The statement required in Subsection [(2)(b)(i)] (3)(b)(i) shall be waived if the
368 claimant received an opinion that there was a breach of the applicable standard of care
369 under Subsection 78B-3-418(2)(a)(i).

370 ~~[(4)]~~ (5) A health care provider who signs an affidavit under Subsection ~~[(2)(b)]~~ (3)(b) shall:

371 (a) if none of the respondents is a physician or an osteopathic physician, hold a current

372 unrestricted license issued by the appropriate licensing authority of Utah or another

373 state in the same specialty or of the same class of license as the respondents; or

374 (b) if at least one of the respondents is a physician or an osteopathic physician, hold a

375 current unrestricted license issued by the appropriate licensing authority of Utah or

376 another state to practice medicine in all its branches.

377 ~~[(5)]~~ (6) A claimant's attorney or claimant may obtain up to a 60-day extension to file the

378 affidavit of merit if:

379 (a) the claimant or the claimant's attorney submits a signed affidavit for extension with

380 notice to the division attesting to the fact that the claimant is unable to submit an

381 affidavit of merit as required by this section because:

382 (i) a statute of limitations would impair the action; and

383 (ii) the affidavit of merit could not be obtained before the expiration of the statute of

384 limitations; and

385 (b) the claimant or claimant's attorney submits the affidavit for extension to each named

386 respondent in accordance with Subsection 78B-3-412(3) no later than 60 days after

387 the date specified in Subsection ~~[(1)(b)(i)]~~ (1)(a)(i).

388 ~~[(6)]~~ (7)(a) A claimant or claimant's attorney who submits allegations in an affidavit of

389 merit that are found to be without reasonable cause and untrue, based on information

390 available to the plaintiff at the time the affidavit was submitted to the division, is

391 liable to the defendant for the payment of reasonable expenses and reasonable

392 attorney fees actually incurred by the defendant or the defendant's insurer.

393 (b) An affidavit of merit is not admissible, and cannot be used for any purpose, in a

394 subsequent lawsuit based on the claim that is the subject of the affidavit, except for

395 the purpose of establishing the right to recovery under Subsection ~~[(6)(e)]~~ (7)(c).

396 (c) A court, or arbitrator under Section 78B-3-421, may award costs and attorney fees

397 under Subsection ~~[(6)(a)]~~ (7)(a) if the defendant files a motion for costs and attorney

398 fees within 60 days of the judgment or dismissal of the action in favor of the

399 defendant. The person making a motion for attorney fees and costs may depose and

400 examine the health care provider who prepared the affidavit of merit under

401 Subsection ~~[(2)(b)]~~ (3)(b).

402 ~~[(7) If a claimant or the claimant's attorney does not file an affidavit of merit as required by~~

403 ~~this section, the division may not issue a certificate of compliance for the claimant and~~

the malpractice action shall be dismissed by the court.]

(8) For each request for prelitigation panel review under Subsection [78B-3-416(2)(b)]

78B-3-416(2), the division shall compile the following information:

(a) whether the cause of action arose on or after July 1, 2010;

(b) the number of respondents named in the request; and

(c) for each respondent named in the request:

(i) the respondent's license class;

(ii) if the respondent has a professional specialty, the respondent's professional specialty;

(iii) if the division does not issue a certificate of compliance at the conclusion of the prelitigation process, the reason a certificate was not issued;

(iv) if the division issues a certificate of compliance, the reason the certificate of compliance was issued;

(v) if an affidavit of merit was filed by the claimant, for each health care provider who submitted an affidavit under Subsection [(2)(b)] (3)(b):

(A) the health care provider's license class and professional specialty; and

(B) whether the health care provider meets the requirements of Subsection 78B-3-416(5)(b); and

(vi) whether the claimant filed an action in court against the respondent.

(9) The division may require the following persons to submit the information to the division necessary for the division to comply with Subsection (8):

(a) a claimant;

(b) a respondent;

(c) a health care provider who submits an affidavit under Subsection [(2)(b)] (3)(b); and

(d) a medical liability pre-litigation panel.

Section 7. Section **78B-3-423.1** is enacted to read:

78B-3-423.1 . Division collection of panel review data.

(1) The division shall:

(a) compile a written report summarizing the division's administration of panel reviews, including at least the information described in Subsection (2);

(b) in compiling the written report under Subsection (1)(a), review information obtained from the court's Xchange database, made available to the division without cost by the Administrative Office of the Courts; and

(c) provide the written report under Subsection (1)(a) to the Judiciary Interim Committee

no later than November 1 of each year.

- (2) The report under Subsection (1) shall detail, for the period beginning on the day after the day through which the last report covered, and ending on the day through which data is available:
- (a) the number of panel reviews the division convened, by respective license class;
 - (b) the number of cases for which a claimant filed a complaint in court;
 - (c) the number of cases in which a provider and claimant agreed to forgo a panel review;
 - (d) the number of cases in which a provider and claimant agreed to use a panel review as binding arbitration;
 - (e) for each panel review the division convened, the prelitigation review panel's determinations regarding merit under Subsection 78B-3-418(2)(a);
 - (f) the number of cases that were settled after a panel review and:
 - (i) before a complaint alleging a malpractice action against a health care provider in court is filed; and
 - (ii) after a complaint alleging a malpractice action against a health care provider in court is filed; and
 - (g) for cases alleging a malpractice action against a health care provider that were resolved, including by adjudication or stipulated settlement:
 - (i) the amount of damages sought as compared to the amount of damages awarded or otherwise obtained, if known, including by the following categories:
 - (A) noneconomic;
 - (B) economic; and
 - (C) punitive; and
 - (ii) the number of cases that were dismissed with prejudice and without an award of damages or any other economic relief to the claimant.

Section 8. Effective Date.

This bill takes effect on May 7, 2025.