

**78B-3-412 Notice of intent to commence action.**

- (1) A malpractice action against a health care provider may not be initiated unless and until the plaintiff:
  - (a) gives the prospective defendant or his executor or successor, at least 90 days' prior notice of intent to commence an action; and
  - (b) except for an action against a dentist, the plaintiff receives a certificate of compliance from the division in accordance with Section 78B-3-418.
- (2) The notice shall include:
  - (a) a general statement of the nature of the claim;
  - (b) the persons involved;
  - (c) the date, time, and place of the occurrence;
  - (d) the circumstances surrounding the claim;
  - (e) specific allegations of misconduct on the part of the prospective defendant; and
  - (f) the nature of the alleged injuries and other damages sustained.
- (3) Notice may be in letter or affidavit form executed by the plaintiff or his attorney. Service shall be accomplished by persons authorized and in the manner prescribed by the Utah Rules of Civil Procedure for the service of the summons and complaint in a civil action or by certified mail, return receipt requested, in which case notice shall be considered served on the date of mailing.
- (4) Notice shall be served within the time allowed for commencing a malpractice action against a health care provider. If the notice is served less than 90 days prior to the expiration of the applicable time period, the time for commencing the malpractice action against the health care provider shall be extended to 120 days from the date of service of notice.
- (5) This section shall, for purposes of determining its retroactivity, not be construed as relating to the limitation on the time for commencing any action, and shall apply only to causes of action arising on or after April 1, 1976. This section shall not apply to third party actions, counterclaims or crossclaims against a health care provider.

Amended by Chapter 97, 2010 General Session