

Representative Margaret Dayton proposes the following substitute bill:

PRELITIGATION PANEL AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Margaret Dayton

This act modifies provisions relating to prelitigation panels in medical malpractice actions. The act allows the panel's results to be introduced in an ensuing court action if allowed under the Rules of Evidence.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

78-14-15, as last amended by Chapter 171, Laws of Utah 1994

This act enacts uncodified material.

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

Section 1. Section **78-14-15** is amended to read:

78-14-15. Evidence of proceedings not admissible in subsequent action -- Panelist may not be compelled to testify -- Immunity of panelist from civil liability -- Information regarding professional conduct.

(1) (a) Evidence of the proceedings conducted by the medical review panel [~~and its results, opinions, findings, and determinations~~] are not admissible as evidence in an action subsequently brought by the claimant in a court of competent jurisdiction.

(b) (i) Notwithstanding Subsection (1)(a), a medical review panel's determination on the question of whether a claim has merit or not may be admitted in a subsequent action consistent with the Utah Rules of Evidence.

(2) No panelist may be compelled to testify in a civil action subsequently filed with regard to the subject matter of the panel's review. A panelist has immunity from civil liability arising from participation as a panelist and for all communications, findings, opinions, and



conclusions made in the course and scope of duties prescribed by this section.

(3) Nothing in this chapter may be interpreted to prohibit the division from considering any information contained in a statutory notice of intent to commence action, request for prelitigation panel review, or written findings of a panel with respect to the division's determining whether a licensee engaged in unprofessional or unlawful conduct.

Section 2. Purpose.

The purpose of this legislation is to:

(1) recognize the value of Utah's prelitigation process and the contribution made to the process by panel members;

(2) encourage the parties to make a good faith effort to present meaningful evidence and argument to the panel; and

(3) permit the trier of fact to consider the determination of the prelitigation panel on the question of whether or not the case has merit.