

HB 582 – AS AMENDED BY THE SENATE

22Jan2014... 2318h
05/15/14 1853s

2013 SESSION

13-0468
06/09

HOUSE BILL **582**

AN ACT relative to early offers for medical injury claims.

SPONSORS: Rep. Weber, Ches 1; Rep. Wall, Straf 6; Sen. Lasky, Dist 13; Sen. Soucy, Dist 18

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill:

I. Requires any waiver of rights by an injured patient to be signed 30 days or more after the medical injury.

II. Modifies time limits regarding waiver of rights.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through~~].
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to early offers for medical injury claims.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Early Offers for Medical Injury Claims; Unrepresented Client; Waiver of Rights. Amend RSA
2 519-C:3, II to read as follows:

3 II. A claimant who was unrepresented at the time the claimant submitted the notice and
4 waiver of rights shall have the right to withdraw the notice of injury and the notice and waiver of
5 rights within [~~5 business~~] **21** days after the claimant's first meeting with the neutral advisor, which
6 shall occur no later than 10 business days from claimant's notification of the identity of the neutral
7 advisor. In the event the claimant withdraws the notice of injury, the early offer process shall be
8 terminated and both parties shall proceed as if the notice of injury was never filed.

9 2 Procedure. RSA 519-C:2, XII is repealed and reenacted to read as follows:

10 XII. A claimant who rejects an early offer and who does not prevail in an action for medical
11 injury against the medical care provider by being awarded at least 125 percent of the early offer
12 amount, shall be responsible for paying the medical care provider's reasonable attorney's fees and
13 costs incurred in the proceedings under this chapter. The claimant shall certify to the court that a
14 bond or other suitable security for payment of the medical care provider's reasonable attorney's fees
15 and costs has been posted before the court shall consider the case. No waiver signed by a claimant
16 prior to 30 days from the date of medical injury shall be held valid.

17 3 Notice and Waiver of Rights. RSA 519-C:13, I is repealed and reenacted to read as follows:

18 I. Claimants electing to pursue resolution of a medical injury under this chapter shall
19 execute a notice and waiver of rights which contains the following wording:

20 WAIVER OF RIGHTS

21 By agreeing to submit a notice of injury to the medical care provider, I understand that my
22 rights to seek legal remedies and a jury trial for my injuries guaranteed by Part I, Articles 14 and 20
23 of the New Hampshire Constitution may be affected.

24 I understand that I have the right to consult and retain an attorney to represent me regarding
25 this matter, and that if an early offer settlement is reached, my attorney will be paid pursuant to
26 RSA 519-C:5, I by the health care provider, in addition to any amount that is paid for my economic
27 loss.

28 If I do not have an attorney when I sign this waiver form, the medical provider will appoint a

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1 neutral advisor to assist me in the early offer process and to explain, among other things, the
2 differences between proceeding under this chapter or as provided in RSA 507-E and RSA 519-B. I
3 HAVE THE RIGHT TO WITHDRAW THIS WAIVER AND THE NOTICE OF INJURY ANY TIME
4 PRIOR TO MIDNIGHT OF THE TWENTY-FIRST DAY AFTER MY FIRST MEETING WITH THE
5 ADVISOR, WHICH MUST OCCUR NO LATER THAN 10 BUSINESS DAYS FROM MY
6 NOTIFICATION OF THE IDENTITY OF THE NEUTRAL ADVISOR.

7 If after submitting a notice of injury, the medical care provider does NOT extend an early offer
8 (RSA 519-C:1, III), I am free to pursue my legal remedies as defined in New Hampshire law without
9 restriction.

10 If after submitting a notice of injury, the medical care provider does extend an early offer (RSA
11 519-C:1, III), I may either:

12 (1) Accept the early offer;

13 (2) Request a hearing before a hearing officer to determine whether the early offer
14 includes all of the economic loss I am entitled to under the statute, and if necessary, the hearing
15 officer may order the medical care provider to increase the early offer to meet the requirements of
16 the early offer law; or

17 (3) Reject the early offer and seek legal remedies.

18 I understand that if I reject an early offer and am later awarded economic damages equal to or
19 less than 125 percent of the amount of the early offer, I will be responsible for paying the medical
20 care provider's reasonable attorney's fees and costs incurred in proceedings under this chapter.

21 I understand that if an early offer is made by the medical care provider and I accept that offer,
22 disputes regarding the early offer can be resolved only in accordance with RSA 519-C:10 by a hearing
23 officer listed with the judicial branch office of mediation and arbitration, at my request or the
24 request of the medical care provider. If either party believes that the decision of the hearing officer
25 is unlawful, that party may seek discretionary review in the New Hampshire court system; however,
26 there is no assurance that the courts will undertake such review.

27 Date _____ Signature _____

28 4 Effective Date. This act shall take effect 60 days after its passage.