

HB 583 – AS AMENDED BY THE HOUSE

13Mar2013... 0458h

2013 SESSION

13-0469
06/10

HOUSE BILL **583**

AN ACT relative to proceedings of medical injury claims screening panels.

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

COMMITTEE: Judiciary

ANALYSIS

This bill modifies procedures for screening panels for medical injury claims.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~.
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 proceedings of medical injury claims screening panels.

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

1 1 Screening Panel Procedures. Amend RSA 519-B:4, II to read as follows:

2 II. Within 20 days of the return date, the person or persons accused shall contact the
3 claimant's counsel and by agreement shall designate a timetable for filing all the relevant medical
4 and provider records necessary to a determination by the panel. If the parties are unable to agree on
5 a timetable within 60 days of the return date, the claimant shall notify the chairperson of the panel.
6 The chairperson shall then establish a timetable for the filing of all relevant records and reasonable
7 discovery, which shall be filed at least 30 days before any hearing date. The hearing shall be **held**
8 no later than 6 months from the return date, except when the time period has been extended by [the
9 panel chairperson in accordance with this chapter] **agreement of the parties.**

10 2 Screening Panel Procedures. Amend RSA 519-B:4, VI to read as follows:

11 VI. All requests for extensions of time under this section shall be made to the panel
12 chairperson. The chairperson may extend any time period for good cause, ~~[except that the~~
13 ~~chairperson may not extend any time period that would result in the hearing being held more than~~
14 ~~11 months following the return date unless good cause is shown]~~ **subject to the provisions of**
15 **paragraph II.**

16 3 Hearings. Amend RSA 519-B:5, I(a) to read as follows:

17 I.(a) The claimant or a representative of the claimant shall present the case before the panel
18 **by an offer of proof.** The person accused of professional negligence or that person's representative
19 shall make a responding presentation **by an offer of proof.** ~~[The panel shall afford the parties wide~~
20 ~~latitude in the conduct of the hearing including, but not limited to, the right of examination and~~
21 ~~cross examination by attorneys. Depositions are admissible whether or not the person deposed is~~
22 ~~available at the hearing.]~~ The chairperson shall make all procedural rulings, which shall be final.
23 The New Hampshire rules of evidence shall not apply. Evidence shall be admitted if it is the kind of
24 evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. The
25 panel shall make findings upon such evidence as is presented at the hearing, the records, and any
26 expert opinions provided by or sought by the panel or the parties. **The evidence presented shall**
27 **be limited to offers of proof and submission of documentary evidence, including but not**
28 **limited to medical records, expert reports, and interrogatory answers. Live witness**
29 **testimony shall not be presented. For purposes of this chapter, "offers of proof" shall mean**
30 **frank, objective, and factual descriptions of the facts made in good faith and without**

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1 **exaggeration.**

2 4 Confidentiality and Admissibility. Amend RSA 519-B:8, I(a)(1) to read as follows:

3 (1) Any ~~[testimony or]~~ writings made under oath may be used in subsequent
4 proceedings for purposes of impeachment.

5 5 Confidentiality and Admissibility. Amend RSA 519-B:8, III to read as follows:

6 III. The deliberations and discussion of the panel ~~[and the testimony of any expert, whether~~
7 ~~called by a party or the panel,]~~ shall be privileged and confidential, and no such person may be asked
8 or compelled to testify at a later court proceeding concerning the deliberations, discussions, or
9 findings, ~~[or expert testimony or opinions expressed during the panel hearing, unless by the party~~
10 ~~who called and presented the nonparty expert,]~~ except such deliberation[⁵] **and** discussion[, ~~and~~
11 ~~testimony]~~ as may be required to prove an allegation of fraud.

12 6 Mandatory Instructions. Amend RSA 519-B:9, I(c) and (d) to read as follows:

13 (c) The panel conducts a summary hearing ~~[and]~~, is not bound by the rules of evidence,
14 **and does not hear live witness testimony.**

15 (d) The hearing is not a substitute for a full trial ~~[and may or may not have included all~~
16 ~~of the evidence that is presented at the trial].~~

17 7 Effective Date. This act shall take effect 60 days after its passage.