
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1182 Session of
2024

INTRODUCED BY ARGALL, PENNYCUICK, J. WARD, HUTCHINSON, BAKER AND
VOGEL, MAY 17, 2024

REFERRED TO JUDICIARY, MAY 17, 2024

AN ACT

1 Amending the act of March 20, 2002 (P.L.154, No.13), entitled
2 "An act reforming the law on medical professional liability;
3 providing for patient safety and reporting; establishing the
4 Patient Safety Authority and the Patient Safety Trust Fund;
5 abrogating regulations; providing for medical professional
6 liability informed consent, damages, expert qualifications,
7 limitations of actions and medical records; establishing the
8 Interbranch Commission on Venue; providing for medical
9 professional liability insurance; establishing the Medical
10 Care Availability and Reduction of Error Fund; providing for
11 medical professional liability claims; establishing the Joint
12 Underwriting Association; regulating medical professional
13 liability insurance; providing for medical licensure
14 regulation; providing for administration; imposing penalties;
15 and making repeals," in medical professional liability,
16 further providing for definitions and for expert
17 qualifications.

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 Section 1. Section 503 of the act of March 20, 2002
21 (P.L.154, No.13), known as the Medical Care Availability and
22 Reduction of Error (Mcare) Act, is amended by adding a
23 definition to read:

24 Section 503. Definitions.

25 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Certificate of merit." A written declaration or
4 certification in a medical professional liability action which
5 includes an allegation that a health care provider deviated from
6 an acceptable professional standard and which specifies that:

7 (1) an appropriate licensed professional has supplied a
8 written statement to support the declaration or
9 certification, which clearly states that there exists a
10 reasonable probability that the care, skill or knowledge
11 exercised or exhibited in the treatment, practice or work
12 that is the subject of the complaint fell outside acceptable
13 professional standards and that the conduct was a cause in
14 bringing about the harm;

15 (2) the claim that the defendant deviated from an
16 acceptable professional standard is based solely on
17 allegations that other licensed professionals for whom this
18 defendant is responsible deviated from an acceptable
19 professional standard; or

20 (3) expert testimony of an appropriate licensed
21 professional is unnecessary for prosecution of the claim.

22 * * *

23 Section 2. Section 512 of the act is amended to read:

24 Section 512. Expert qualifications.

25 (a) General rule.--No person shall be competent to offer an
26 expert medical opinion in a medical professional liability
27 action against a physician, or provide a statement in support of
28 a certificate of merit, unless that person possesses sufficient
29 education, training, knowledge and experience to provide
30 credible, competent testimony and fulfills the additional

1 qualifications set forth in this section as applicable.

2 (a.1) Certificate of merit.--A certificate of merit shall
3 be:

4 (1) Signed by the attorney for the plaintiff or by the
5 plaintiff if not represented by an attorney.

6 (2) Filed in the appropriate office of the prothonotary:

7 (i) with the complaint alleging medical professional
8 liability or at the time of the commencement of the
9 medical professional liability action; or

10 (ii) within 60 days of the commencement of the
11 medical professional liability action if the attorney for
12 the plaintiff, or the plaintiff if not represented by an
13 attorney, provides grounds as to why the certificate of
14 merit was not able to be filed with the complaint or at
15 the time of commencement of the action.

16 (b) Medical testimony.--An expert testifying on a medical
17 matter or providing a statement in support of a certificate of
18 merit, including the standard of care, risks and alternatives,
19 causation and the nature and extent of the injury, must meet the
20 following qualifications:

21 (1) Possess an unrestricted physician's license to
22 practice medicine in [any state or the District of Columbia]
23 this Commonwealth.

24 (2) Be engaged in [or retired within the previous five
25 years from] active clinical practice or teaching in the same
26 or similar specialty or subspecialty of the health care
27 provider against whom the medical professional liability
28 action has been brought. Provided, however, the court may
29 only waive the requirements of this subsection for an expert
30 on a matter other than the standard of care or issuing a

1 statement in support of a certificate of merit if the court
2 determines that the expert is otherwise competent to testify
3 about medical or scientific issues by virtue of education,
4 training or experience.

5 (c) Standard of care.--In addition to the requirements set
6 forth in subsections (a) and (b), an expert testifying or
7 issuing a statement in support of a certificate of merit as to a
8 physician's standard of care also must meet the following
9 qualifications:

10 (1) Be substantially familiar with the applicable
11 standard of care for the specific care at issue as of the
12 time of the alleged breach of the standard of care.

13 (2) Practice in the same subspecialty as the defendant
14 physician or in a subspecialty which has a substantially
15 similar standard of care for the specific care at issue,
16 except as provided in subsection (d) or (e).

17 (3) In the event the defendant physician is certified by
18 an approved board, be board certified by the same or a
19 similar approved board, except as provided in subsection (e).

20 (d) Care outside specialty.--A court may waive the same
21 subspecialty requirement for an expert testifying on the
22 standard of care for the diagnosis or treatment of a condition
23 if the court determines that:

24 (1) the expert is trained in the diagnosis or treatment
25 of the condition, as applicable; and

26 (2) the defendant physician provided care for that
27 condition and such care was not within the physician's
28 specialty or competence.

29 (e) Otherwise adequate training, experience and knowledge.--
30 A court may waive the same specialty and board certification

1 requirements for an expert testifying as to a standard of care
2 if the court determines that the expert possesses sufficient
3 training, experience and knowledge to provide the testimony as a
4 result of active involvement in or full-time teaching of
5 medicine in the applicable subspecialty or a related field of
6 medicine within the previous five-year time period. The court
7 may not waive the requirements under this subsection for a
8 person issuing a statement in support of a certificate of merit
9 in a medical professional liability action.

10 (f) Information to be included.--A certificate of merit and
11 accompanying statement shall include the contact information and
12 curriculum vitae of the medical professional issuing the
13 statement in accordance with the requirements of this section.

14 Section 3. This act shall take effect in 180 days.