



General Assembly

January Session, 2003

Raised Bill No. 968

LCO No. 3428

Referred to Committee on Judiciary

Introduced by:
(JUD)

**AN ACT CONCERNING FAIR PROCEDURES FOR MAKING CLAIMS
AGAINST HEALTH CARE PROVIDERS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 52-190a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003, and*
3 *applicable to causes of action pending on or accruing on or after said date*):

4 (a) No civil action or apportionment complaint shall be filed to
5 recover damages resulting from personal injury or wrongful death
6 occurring on or after October 1, 1987, whether in tort or in contract, in
7 which it is alleged that such injury or death resulted from the
8 negligence of a health care provider, unless the attorney or party filing
9 the action or apportionment complaint has made a reasonable inquiry
10 as permitted by the circumstances to determine that there are grounds
11 for a good faith belief that there has been negligence in the care or
12 treatment of the claimant. The complaint, [or] initial pleading or
13 apportionment complaint shall contain a certificate, on a form
14 prescribed by the rules of the superior court, of the attorney or party
15 filing the action or apportionment complaint that such reasonable
16 inquiry gave rise to a good faith belief that grounds exist for an action

17 against each named defendant or for an apportionment complaint
18 against each named apportionment defendant. For purposes of this
19 section, such good faith may be shown to exist if the claimant or [his]
20 such claimant's attorney, or the apportionment complainant or such
21 apportionment complainant's attorney, as the case may be, has
22 received a written opinion, which shall not be subject to discovery by
23 any party except for questioning the validity of the certificate, of a
24 similar health care provider as defined in section 52-184c, which
25 similar health care provider shall be selected pursuant to the
26 provisions of said section, that there appears to be evidence of medical
27 negligence. In addition to such written opinion, the court may consider
28 other factors with regard to the existence of good faith. If the court
29 determines after the completion of discovery, that such certificate was
30 not made in good faith and that no justiciable issue was presented
31 against a health care provider that fully cooperated in providing
32 informal discovery, the court upon motion or upon its own initiative,
33 shall impose upon the person who signed such certificate, a
34 represented party or both, an appropriate sanction, which may include
35 an order to pay to the other party or parties the amount of the
36 reasonable expenses incurred because of the filing of the pleading,
37 motion or other paper, including a reasonable attorney's fee. The court
38 may also submit the matter to the appropriate authority for
39 disciplinary review of the attorney if the claimant's attorney or the
40 apportionment complainant's attorney submitted the certificate.

41 (b) If a claimant in a civil action asserts a claim against an
42 apportionment defendant pursuant to subsection (d) of section 52-
43 102b, the requirement under subsection (a) of this section that the
44 attorney or party filing the action make a reasonable inquiry and
45 submit a certificate of good faith shall be satisfied by the submission of
46 a certificate of good faith by the apportionment complainant pursuant
47 to subsection (a) of this section.

48 ~~[(b)]~~ (c) Upon petition to the clerk of the court where the action will
49 be filed, an automatic ninety-day extension of the statute of limitations

50 shall be granted to allow the reasonable inquiry required by subsection
51 (a) of this section. This period shall be in addition to other tolling
52 periods.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003, and applicable to causes of action pending on or accruing on or after said date</i>

Statement of Purpose:

To impose upon a defendant in a medical malpractice action the same requirement to obtain a good faith certificate as is imposed upon the plaintiff in such action if such defendant brings another health care provider into the action by way of an apportionment complaint.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]