



General Assembly

Amendment

January Session, 2009

LCO No. 6189

SB0110006189SR0

Offered by:

SEN. FASANO, 34th Dist.

SEN. BOUCHER, 26th Dist.

To: Senate Bill No. 1100

File No. 684

Cal. No. 469

"AN ACT CONCERNING MEDICAL GROUP CLINIC CORPORATIONS."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. (NEW) (*Effective July 1, 2009*) (a) The Chief Court
4 Administrator shall establish pretrial screening panels for the purpose
5 of identifying claims of negligence by health care providers and
6 encouraging the early resolution of meritorious claims prior to the
7 commencement of a civil action and the early withdrawal or dismissal
8 of nonmeritorious claims.

9 (b) The Chief Court Administrator shall maintain lists of health care
10 providers and attorneys recommended by the professions involved to
11 serve on such panels.

12 (c) Whenever a civil action is filed on or after October 1, 2009, to
13 recover damages resulting from personal injury or wrongful death

14 occurring, whether in tort or in contract, in which it is alleged that such
15 injury or death was caused by the negligence of a health care provider,
16 the clerk of the court shall notify the Chief Court Administrator.
17 Unless the parties have agreed to bypass the pretrial screening process
18 provided by this section and section 502 of this act, the Chief Court
19 Administrator shall designate a judge trial referee as the chairperson of
20 a panel to review the certificate of good faith filed with the complaint
21 in such action pursuant to section 52-190a of the general statutes. The
22 judge trial referee shall select additional members for the panel from
23 the lists maintained pursuant to subsection (b) of this section. Such
24 members shall include an attorney and a health care provider. If the
25 claim involves more than one health care provider accused of
26 negligence, the judge trial referee may select another health care
27 provider as a member of the panel. In lieu of a member selected from
28 the lists maintained pursuant to subsection (b) of this section, if all
29 parties agree, the judge trial referee may select a member who is not on
30 such lists.

31 (d) The members of the panel, other than the chairperson, shall
32 serve without compensation.

33 (e) If any member of a panel other than the chairperson is unable or
34 unwilling to serve in any matter or is challenged for cause by any
35 person who is a party to a proceeding before the panel, the party
36 challenging the member shall request a replacement from the lists
37 maintained by the Chief Court Administrator pursuant to subsection
38 (b) of this section. The chairperson shall select a replacement and shall
39 so notify the parties. Only challenges for cause shall be allowed. The
40 chairperson shall inquire as to any bias on the part of a member of a
41 panel or as requested by any party.

42 (f) If the chairperson is challenged for cause by any person who is a
43 party to the proceeding before a panel, the party making the challenge
44 shall notify the Chief Court Administrator. If the Chief Court
45 Administrator finds cause for the challenge, the Chief Court
46 Administrator shall designate another judge trial referee to replace the

47 chairperson.

48 (g) The applicable statute of limitations concerning an action for
49 negligence against a health care provider shall be tolled from the date
50 that the civil action is filed until thirty days after the date the claimant
51 receives notice of the findings of the panel.

52 (h) The notice of claim and all other documents filed with the court
53 in the case during the pretrial screening process shall be confidential.

54 Sec. 502. (NEW) (*Effective October 1, 2009*) (a) The panel selected and
55 convened pursuant to section 501 of this act shall hold a hearing where
56 all parties to the civil action may appear and make a presentation with
57 respect to the sufficiency of the good faith certificate that has been filed
58 with the complaint in such civil action. After presentation by the
59 parties, the panel may request from any of the parties such additional
60 facts, records or other information as it deems appropriate.

61 (b) Not later than thirty days after such hearing, the panel shall
62 make a finding as to whether such certificate is persuasive or is not
63 persuasive in demonstrating that there are grounds for a good faith
64 belief that there has been negligence in the care or treatment of the
65 claimant.

66 (c) If the panel finds, by a preponderance of the evidence, that such
67 certificate is persuasive in demonstrating that there are grounds for a
68 good faith belief that there has been negligence in the care or treatment
69 of the claimant, it shall so notify the parties and the claimant may
70 proceed with the prosecution of the civil action, provided such finding
71 shall not be admissible in such civil action.

72 (d) (1) If the panel finds, by a preponderance of the evidence, that
73 such certificate is not persuasive in demonstrating that there are
74 grounds for a good faith belief that there has been negligence in the
75 care or treatment of the claimant, it shall so notify the parties and the
76 claimant shall, not later than sixty days after such notice, (A) submit
77 another good faith certificate to such panel, or (B) request the Chief

78 Court Administrator to designate a different judge trial referee to
79 select and convene a different panel pursuant to section 501 of this act
80 and submit a second good faith certificate to such different panel for
81 review. Failure of the plaintiff to submit a second good faith certificate
82 to either the original panel or different panel under this subsection
83 shall be cause for the dismissal of the plaintiff's civil action.

84 (2) If, upon review of a second good faith certificate submitted
85 pursuant to subdivision (1) of this subsection, the panel finds, by a
86 preponderance of the evidence, that such second good faith certificate
87 is also not persuasive in demonstrating that there are grounds for a
88 good faith belief that there has been negligence in the care or treatment
89 of the claimant, it shall so notify the parties and the claimant may
90 proceed with the prosecution of the civil action, provided both the
91 finding by the panel under subdivision (1) of this subsection and the
92 finding by the panel under this subdivision shall be admissible in such
93 civil action.

94 (3) If, upon review of a second good faith certificate submitted
95 pursuant to subdivision (1) of this subsection, the panel finds, by a
96 preponderance of the evidence, that such second good faith certificate
97 is persuasive in demonstrating that there are grounds for a good faith
98 belief that there has been negligence in the care or treatment of the
99 claimant, it shall so notify the parties and the claimant may proceed
100 with the prosecution of the civil action, provided such finding shall not
101 be admissible in such civil action."