

FEB 15 2006
JUDICIARY

HOUSE FILE 2411
BY HUTTER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to creation of a medical review panel and the
2 admissibility of the panel's opinion in a medical malpractice
3 action.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2411

1 Section 1. NEW SECTION. 147.140 MEDICAL REVIEW PANEL.

2 1. Not less than twenty days after the filing of a
3 complaint initiating an action for damages for personal injury
4 or death against a health care provider based on the alleged
5 negligence of the health care provider in the practice of the
6 profession or occupation, either party may request the
7 formation of a medical review panel by serving a request by
8 certified mail or restricted certified mail upon all parties.

9 2. a. A medical review panel shall consist of one
10 attorney and three health care providers who hold a license to
11 practice in their profession.

12 b. Within forty-five days after filing the request for
13 formation of a medical review panel under subsection 1, the
14 parties shall select an attorney to act as panel chairperson
15 by agreement, each party to the action shall select one health
16 care provider, and the two selected health care providers
17 shall select the third health care provider. Two of the
18 health care providers selected shall practice in the same area
19 as the defendant.

20 c. The attorney member, acting as chairperson of the
21 medical review panel, shall prepare the opinion of the panel
22 but shall not vote. The chairperson shall expedite the
23 selection of the other panel members, convene the panel, and
24 expedite the panel's review of the proposed complaint.

25 3. Written evidence to be considered by the medical review
26 panel shall be promptly submitted by the respective parties.
27 The evidence may consist of medical charts, x-rays, lab
28 charts, treatises, depositions, and any other form of evidence
29 requested by the medical review panel. In addition, the panel
30 may consult with medical experts and examine reports of health
31 care providers necessary to fully inform the panel regarding
32 the issue to be decided. Both parties shall have full access
33 to any material submitted to the panel.

34 4. After reviewing all of the evidence and after
35 examination of the medical review panel by counsel

1 representing either party, the panel shall, within thirty
2 days, issue a written opinion as to whether or not the
3 evidence supports the conclusion the defendant acted or failed
4 to act within the appropriate standard of care as charged in
5 the complaint, and if so, whether the act or failure to act
6 was a factor in the plaintiff's injury.

7 5. A report of the expert opinion reached by the medical
8 review panel is admissible as evidence in any action
9 subsequently brought by the claimant. However, the expert
10 opinion is not conclusive and either party, at the party's
11 cost, has the right to call any member of the medical review
12 panel as a witness.

13 6. A member of a medical review panel formed pursuant to
14 this section shall not be civilly liable as a result of acts,
15 omissions, or decisions made in connection with the person's
16 service on the medical review panel. However, such immunity
17 from civil liability shall not apply if an act, omission, or
18 decision is made with malice.

19 7. For purposes of this section, "health care provider"
20 means a physician licensed under chapter 148, 150, or 150A, a
21 chiropractor licensed under chapter 151, a physical therapist
22 licensed pursuant to chapter 148A, an occupational therapist
23 licensed pursuant to chapter 148B, a podiatrist licensed
24 pursuant to chapter 149, a physician assistant licensed and
25 practicing under a supervising physician pursuant to chapter
26 148C, a licensed practical nurse, a registered nurse, or an
27 advanced registered nurse practitioner licensed pursuant to
28 chapter 152 or 152E, a respiratory therapist licensed pursuant
29 to chapter 152B, a dentist, dental hygienist, or dental
30 assistant registered or licensed to practice under chapter
31 153, an optometrist licensed pursuant to chapter 154, a
32 psychologist licensed pursuant to chapter 154B, a social
33 worker licensed pursuant to chapter 154C, a mental health
34 counselor or a marital and family therapist licensed pursuant
35 to chapter 154D, a pharmacist licensed pursuant to chapter

1 155A, or an emergency medical care provider certified pursuant
2 to chapter 147A.

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EXPLANATION

4 This bill relates to the creation of a medical review panel
5 after a complaint initiating an action for damages for
6 personal injury or death against a health care provider has
7 been filed.

8 The bill provides that not less than 20 days after the
9 filing of a complaint initiating an action for damages for
10 personal injury or death against a health care provider based
11 on the alleged negligence of the health care provider in the
12 practice of the profession or occupation, either party may
13 request the formation of a medical review panel by serving a
14 request by certified mail or restricted certified mail upon
15 all parties. The panel must consist of one attorney and three
16 health care providers. The bill includes provisions relating
17 to the selection of the panel members and the chairperson of
18 the panel, the evidence received and reviewed by the panel,
19 and the opinion of the panel as to whether or not the evidence
20 supports the conclusion the defendant acted or failed to act
21 within the appropriate standard of care as charged in the
22 complaint, and if so, whether the act or failure to act was a
23 factor in the plaintiff's injury.

24 The bill provides that a report of the expert opinion
25 reached by the medical review panel is admissible as evidence
26 in any action subsequently brought by the plaintiff; however,
27 the expert opinion is not conclusive and either party, at the
28 party's cost, has the right to call any member of the medical
29 review panel as a witness.

30 The bill provides that a member of a medical review panel
31 shall not be civilly liable as a result of acts, omissions, or
32 decisions made in connection with the person's service on the
33 medical review panel. However, such immunity from civil
34 liability shall not apply if an act, omission, or decision is
35 made with malice.

1 For purposes of the bill, "health care provider" means a
2 physician licensed under Code chapter 148, 150, or 150A, a
3 chiropractor licensed under Code chapter 151, a physical
4 therapist licensed pursuant to Code chapter 148A, an
5 occupational therapist licensed pursuant to Code chapter 148B,
6 a podiatrist licensed pursuant to Code chapter 149, a
7 physician assistant licensed and practicing under a
8 supervising physician pursuant to Code chapter 148C, a
9 licensed practical nurse, a registered nurse, or an advanced
10 registered nurse practitioner licensed pursuant to Code
11 chapter 152 or 152E, a respiratory therapist licensed pursuant
12 to Code chapter 152B, a dentist, dental hygienist, or dental
13 assistant registered or licensed to practice under Code
14 chapter 153, an optometrist licensed pursuant to Code chapter
15 154, a psychologist licensed pursuant to Code chapter 154B, a
16 social worker licensed pursuant to Code chapter 154C, a mental
17 health counselor or a marital and family therapist licensed
18 pursuant to Code chapter 154D, a pharmacist licensed pursuant
19 to Code chapter 155A, or an emergency medical care provider
20 certified pursuant to Code chapter 147A.

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