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SENATE BILL NO. 384

Offered January 20, 2000

A BILL to amend and reenact § 8.01-581.2 of the Code of Virginia, relating to the review of a malpractice action by a medical malpractice review panel.

Patrons—Mims, Forbes, Norment, Stolle and Trumbo; Delegates: Cantor and Howell

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-581.2 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-581.2. Request for review by medical malpractice review panel; rescission of request; determination on request.

A. At any time within thirty days from the filing of the responsive pleading in any action brought for malpractice against a health care provider, the plaintiff or defendant may request a review by a medical malpractice review panel established as provided in § 8.01-581.3. The request shall be forwarded by the clerk of the circuit court party making the request to the Clerk of the Supreme Court of Virginia with a copy of the Motion for Judgment and a copy of all responsive pleadings. A copy of the request shall be filed with the clerk of the circuit court, and a copy shall be sent to all counsel of record. The request shall include the name of the judge to whom the case is assigned, if any. Upon receipt of such request, the Supreme Court shall select the panel members as provided in § 8.01-581.3:1 and shall designate a panel within sixty days after receipt of the request. If a panel is requested, proceedings on the action based on the alleged malpractice shall be stayed during the period of review by the medical review panel, except that the judge may rule on any motions, demurrers, or pleas that can be disposed of as a matter of law and, prior to the designation of the panel, shall rule on any motions to transfer venue.

B. After the selection of the members of the review panel, the requesting party may rescind a request for review by the panel only with the consent of all parties or with leave of the judge presiding over the panel.

C. Any health care provider named as a defendant shall have the right to request a panel and, in that event, shall give notice of its request to the other health care providers named in the motion for judgment as well as to the plaintiff and his counsel of record. When a request for a medical review panel is made by any party, a single panel shall be designated and all health care providers against whom a claim is asserted shall be subject to the jurisdiction of such panel. The provisions of this subsection shall not prohibit the addition of parties pursuant to § 8.01-581.2:1.

INTRODUCED

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